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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of decision : 13.01.2025

Gurbir Singh Grewal and another

... Petitioners

Versus

Baljeet Kaur Grewal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Deepak Aggarwal, Advocate
for the petitioners (through V.C.).

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 08.08.2024 passed by the Civil Judge (Jr.Div.), Sirsa in CS no.409 of 2024 titled as “Baljeet Kaur Grewal vs. Gurbir Singh Grewal and others”, vide which the application moved by the petitioners-defendants under Order 7 Rule 11 CPC for rejection of plaint has been dismissed.

2. Learned counsel for the petitioners has submitted that the headnote of the present suit shows that the suit had been filed by the plaintiff-respondent no.1 through her attorney Rajbir Singh, who is her son but no power of attorney had been annexed along with the plaint and thus, the present petitioners had moved an application dated 31.05.2024 for rejection of the plaint, which application has been illegally dismissed by the



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trial Court vide order dated 08.08.2024. It is submitted that since the suit is not maintainable, thus, the application should be allowed and the impugned order be set aside and the plaint be rejected.

3. This Court has heard the learned counsel for the petitioners and has perused the paper book.

4. It is not in dispute that respondent no.1-Baljeet Kaur Grewal, who is stated to be the widow of Sh.Raghubir Singh Grewal, had filed a suit through her power of attorney, who is her son, for permanent injunction restraining the present petitioners along with other defendants from interfering in the peaceful possession of the land in question. In the said suit, an application under Order 7 Rule 11 CPC had been filed by the petitioners, in which the main plea raised was that the power of attorney had not been placed on the file. In the reply dated 20.07.2024 (Annexure P-3) filed by respondent no.1, it was stated that the attorney holder was the son of the respondent and that the copy of the power of attorney along with its Hindi translation had already been filed in the case and that the power of attorney had been duly executed by the respondent no.1-plaintiff in favour of her son vide registered deed dated 29.05.2023, which was much prior to the filing of the suit on 15.05.2024. It is submitted that in view of the same, the application under Order 7 Rule 11 CPC was not maintainable and deserved to be dismissed.

5. The learned trial Court vide order dated 08.08.2024, by relying upon the judgment of this Court in the case of ***Lachhman Dass and another vs. Jeet Ram and others***, reported as ***2014 SCC OnLine P&H***



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23041, had observed that non-filing of the power of attorney / GPA was only an irregularity on the part of the plaintiff, which stood rectified by subsequent filing of the same and the said point would not attract the provisions of Order 7 Rule 11 CPC for rejection of the plaint.

6. It is not in dispute that the power of attorney was subsequently placed on record and that the attorney holder was the son of the plaintiff, who is a widow. This Court in the case of ***Lachhman Dass and another (supra)*** had, after taking into consideration the law laid down in the various judgments, observed that even in case a pleader was not having a vakalatnama (power of attorney) on the date of the institution of the suit, the same was an irregularity and not an illegality and could be subsequently ratified. In the above said case, the suit was filed by the caretaker on the oral instructions of the land owner, which was later on remedied by the land owners by providing the Court with the power of attorney duly executed by them in the name of the plaintiff therein, thus, ratifying the act of filing the suit on their behalf. The said ratification was upheld by this Court. The relevant part of the said judgment is reproduced hereinbelow:-

***“The last question would be as to whether the suit could have been filed by the Caretaker on oral instructions of the owners, though after the presentation of plaint, the Power of Attorney in favour of the Caretaker/plaintiff in the suit was also placed on record by the owners of the suit property.*”**

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The judgment in Wali Mohammad Khan's case (supra) was further relied upon by the Allahabad High Court in another



judgment passed in the case of Kanhaiya Lal v. The Panchayati Akhara, AIR 1949 ALL. 367 F.B. in which the issue was that the application was produced by the pleader having no Vakalatnama from the decree-holder and it was thus held that “an application to be in accordance with law must conform to the provisions contained in Rr. 11 to 14 of O. 21, Civil P.C. Under cl. (2) of R. 17 of O. 21 an application which fulfils the requirements of Rr. 11 to 14, as may be applicable to the case, will be treated as “an application in accordance with law.” The improper presentation of an application, which is otherwise in accordance with law, is, in my opinion, a mere irregularity and not an illegality. If such an application is admitted and registered and order for execution of the decree is made under cl. (4) of R. 17, the application will be treated as an application made in accordance with law. I need only refer to Wali Mohammad Khan's case:(1931 A.L.J. 777: A.I.R. (18) 1931 ALL. 507 F.B.) where the defect in presentation of the plaint was held to be a mere irregularity”. In view of the aforesaid, the presentation of the suit in the present case by the Caretaker on the oral instructions of the land owners was an irregularity which was later on remedied by the land owners providing the Court with the Power of Attorney duly executed by them in the name of the plaintiff ratifying his act of filing the suit on their behalf on oral instructions.”



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7. No contrary judgment has been cited on behalf of learned counsel for the petitioners. Even the factum that the power of attorney executed in favour of the son of the plaintiff was dated 29.05.2023, which was executed prior to the filing of the suit which was filed in May, 2024 is not disputed before this Court.

8. Keeping in view the abovesaid facts and circumstances, the order dated 08.08.2024 is in accordance with law and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

(VIKAS BAHL)
JUDGE

January 13, 2025.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No