

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(111)

CR-4171-2026 (O&M)

Date of Decision: **22.05.2026**

M/S DASHMESH EDUCATIONAL CHARITABLE TRUST

... Petitioner

Versus

NAND KISHOR AND ANOTHER

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

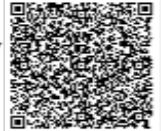
Present:- Mr. Charanji Lal, Advocate
for the petitioner.

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VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been instituted under Article 227 of the Constitution of India invoking the supervisory jurisdiction of this Court to assail the order dated 15.12.2025, whereby the application preferred by the petitioner under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short, "CPC") seeking rejection of the plaint came to be dismissed by the learned trial Court.

2. The factual background giving rise to the present proceedings, in a concise form, is that the respondent-plaintiffs instituted a civil suit seeking possession by way of partition along with relief of mandatory injunction and consequential relief of permanent injunction. During the pendency of the suit, the petitioner-defendant moved an application under Order VII Rule 11 CPC seeking rejection of the plaint, *inter alia*, on the grounds that the suit was barred by limitation; that the petitioner had perfected his title by way of adverse possession; that the respondent-

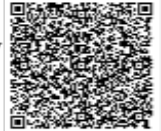


plaintiffs had no subsisting cause of action; that the suit was barred under the provisions of Section 158 of the Punjab Land Revenue Act, 1887; that the suit suffered from the defect of partial partition; and that the requisite *ad valorem* court fee had not been paid.

3. The said application, upon contest by the parties, came to be dismissed by the learned trial Court vide the impugned order. Aggrieved by the said determination, the petitioner has approached this Court by way of the present revision petition.

4. Learned counsel appearing on behalf of the petitioner contended that the impugned order suffers from patent illegality and is legally unsustainable, inasmuch as the learned trial Court failed to properly appreciate that the jurisdiction of the Civil Court stood expressly barred by virtue of Section 158 of the Punjab Land Revenue Act, 1887. It was argued that the suit property being agricultural land, partition thereof could only be effected by the competent revenue authorities in accordance with Section 111 of the Punjab Land Revenue Act, 1887. It was further contended that the learned trial Court erred in holding that limitation constituted a mixed question of law and fact without considering the specific plea raised by the petitioner regarding perfection of title by adverse possession. It was argued that the finding of the learned trial Court that no plea of adverse possession can be raised against a co-owner is legally erroneous and contrary to settled principles of law.

4.1. It was further contended that since the respondent-plaintiffs had sought separate possession of the suit property, payment of *ad valorem* court fee was mandatory and the suit, in its present form, was not

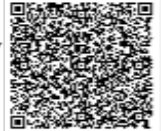


maintainable. It was also argued that the plaint failed to disclose any valid cause of action warranting continuation of the proceedings.

4.2. Per contra, it was observed by the learned trial Court that while adjudicating an application under Order VII Rule 11 CPC, the Court is required to confine itself exclusively to the averments contained in the plaint and the documents relied upon by the plaintiffs. The learned trial Court rightly concluded that the plea regarding adverse possession and the consequent extinguishment of the plaintiffs' right to claim ownership constituted questions requiring adjudication on evidence and could not be conclusively determined at the threshold stage. The plea of adverse possession necessarily involved factual determination concerning the nature, continuity, and hostile character of possession, which required evidentiary examination.

4.3. Insofar as the issue regarding payment of *ad valorem* court fee is concerned, the learned trial Court correctly observed that the suit had been instituted for partition by co-owners claiming joint possession over the suit property and, therefore, payment of *ad valorem* court fee was not warranted.

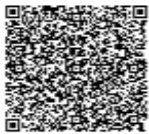
4.4. The learned trial Court further rightly concluded that the suit was not barred under the provisions of Section 63 of the Land Acquisition Act, as the subject matter of the suit pertained to land which had not been acquired and continued to remain in the ownership of the parties to the proceedings. Consequently, the provisions of the said enactment had no applicability to the controversy involved.



4.5. Similarly, with regard to the objection founded upon Section 158 of the Punjab Land Revenue Act, 1887, the plaintiffs had specifically pleaded in the plaint that a hospital structure had been raised over a portion of the suit property. Therefore, merely on the basis of the pleadings, it could not be conclusively inferred that the property retained the character of agricultural land requiring partition exclusively by revenue authorities under Section 111 of the Punjab Land Revenue Act, 1887. The determination of such an issue would necessarily involve adjudication upon factual aspects requiring evidence to be led by the parties.

4.6. Accordingly, having regard to the overall facts and circumstances of the case, no ground is made out warranting interference with the well-reasoned impugned order passed by the learned trial Court. Consequently, the present revision petition, being devoid of merit, deserves dismissal and is accordingly **dismissed**.

5. It is, however, clarified that the observations recorded here-in-above are not intended, nor shall they be construed, as an expression of opinion upon the merits of the underlying controversy. The observations made herein are confined solely to the adjudication of the limited issue arising in the present proceedings and shall not prejudice the rights, claims, or contentions of either party during adjudication of the main matter, nor shall they be treated as a conclusive determination of any substantive question of fact or law.



6. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, shall also stand disposed of accordingly. No separate orders are required to be passed in that regard.

22.05.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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