



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

CR-4930-2026

Date of Decision: 02.07.2026

Kusum Rani

..... Petitioner

Versus

Paramjit Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Nitish Bhatia, Advocate
for the petitioner.

HARSH BUNGER J. (ORAL):

Prayer in the present revision petition filed under Article 227 of the Constitution of India *inter alia* is for setting aside the order dated 22.01.2026 (Annexure P-1) passed by the learned Civil Judge (Jr. Divn.) Patiala, whereby an application filed by the petitioner/defendant under Order 7 Rule 11 CPC seeking rejection of plaint, has been dismissed.

2. Briefly, respondent herein namely Sh. Paramjit Singh filed a suit for permanent injunction (Annexure P-2) against the present petitioner (Kusum Rani) for restraining her and her servants, agents etc. from alienating the house situated at Village Balamgarh, Tehsil and District Patiala (under 'Lal Lakeer'), as depicted in the site plan (attached with the plaint). The relevant pleadings in the plaint read as under:-

“2. That the suit property fully detailed and described in the heading of this plaint was owned and possessed by Shri Wadhawa Ram. Wadhawa Ram was blessed with four children i.e. sons namely Hans Raj and Nathu Ram and daughters namely Devki and Manohari. Thereafter, the suit property remained in possession of Shri Nathu Ram son of Wadhawa Ram. The said Nathu Ram was also resident of village Balamgarh, Tehsil and District Patiala.

3. That Nathu Ram was the real uncle of the plaintiff. Nathu Ram was unmarried and died issueless. He was residing with the plaintiff and the plaintiff was looking after Nathu Ram in all respects.

4. That Nathu Ram died on 30.12.2017 and the plaintiff and his close relatives performed his last rites and bhog ceremonies.

5. That the defendant has no right, title or interest whatsoever with the suit property, but she is in illegal possession of the suit property.

6. That the plaintiff filed suit bearing CS/109/2018 titled as Manohari Devi and others Versus Kusam Rani, for permanent injunction from interfering or cause to interfere in the possession of the plaintiff and from taking forcible possession of the suit property. In the said suit, the present defendant filed counter claim. The above said suit was dismissed with costs and the counter claim filed by the present defendant was partly decreed vide judgment and decree dated 31.05.2022 passed by the Court of Shri Gurkiran Singh, PCS, Civil Judge, Junior Division, Patiala.

7. That now, the defendant is threatening and bent upon to alienate the suit property and also want to transfer its possession to third party, to which, she has no right at all.

8. That the plaintiff has no other efficacious or speedy remedy except to file the present suit and the plaintiff claims and is entitled to a decree for the same.

9. That no suit for the same relief has earlier been filed, nor

is pending or finally decided by any court of competent jurisdiction except the above Suit No.CS/109/2018 titled as Manohari Devi and others Versus Kusam Rani.

10. *That the cause of action arose to the plaintiff, when the defendant threatened the plaintiff to alienate the suit property and also when the defendants tried to transfer the possession of the suit property to third person. The cause of action is recurring one.*

11. *That value of the suit for the purposes of court fee and jurisdiction for the relief of permanent injunction is Rs.130/-, hence a court fee stamps of Rs.50/-is affixed on the plaint.*

12. *That the suit property is situated at village Balamgarh, Tehsil and District Patiala, hence, this Hon'ble Court has got jurisdiction to try and decide this suit.*

*It is, therefore, prayed that **SUIT of the plaintiff FOR PERMANENT INJUNCTION** restraining the defendant, her servants, agents, attorney, employees or anybody else acting on her behalf or representing her in any manner from alienating the House situated at village Balamgarh, Tehsil and District Patiala as shown in the site plan Annexure P-1 fully detailed and described in the heading of this plaint, AND also from transferring the possession of the suit property, may kindly be decreed with costs in favour of the plaintiff and against the defendant.*

Any other additional or alternative relief, which the Hon'ble Court deems fit be also granted in favour of the plaintiff and against the defendant.”

2.1 A bare perusal of the above extracted plaint would show that the respondent herein had duly mentioned in paragraph No.6 of the plaint as regards the filing of an earlier suit bearing No.CS/109/2018 titled as **Manohari Devi and others Versus Kusum Rani**, which was decided vide judgment and decree dated 31.05.2022 by the learned Civil Judge (Junior Division), Patiala.

2.2 The present petitioner appeared in the aforesaid suit and filed an application dated 19.05.2025 (Annexure P-3) under Order 7 Rule 11 of CPC, seeking dismissal of the suit for permanent injunction primarily on the following grounds:-

- (i) That the suit is not maintainable.
- (ii) That the suit is barred under the settled law and principles of res judicata, as the civil suit bearing No.CS/109/2018 already stood decided vide judgment and decree dated 31.05.2022 by the learned Civil Judge (Junior Division), Patiala and even an appeal filed against the same had been dismissed by the learned Additional District Judge, Patiala, vide judgment and decree dated 29.09.2023.
- (iii) That the suit was barred by limitation.
- (iv) That the plaintiff had no right, title or interest in the suit property.
- (v) That the plaintiff had not submitted all the documents in his possession in order to mislead the Court.
- (vi) That the plaintiff had not sent any legal notice before filing the suit.
- (vii) That the plaintiff had prepared forged documents for filing the suit.
- (viii) That the suit is under valued.

2.3 The learned Trial Court after considering the matter, dismissed the application filed by petitioner under Order 7 Rule 11 CPC vide order dated 22.01.2026 (Annexure P-1), by observing as under:-

“7. This court has considered the contents of the application and the reply. This court has also carefully and meticulously

heard both the sides.

*8. On the basis of the averments made by both the sides, this court finds that the present suit has been filed for the relief of permanent injunction restraining the defendant, her servants, agents, attorneys, employees or anybody else acting on her behalf **from alienating the house** situated at Village Balamgarh, Tehsil and District, Patiala. Per contra, the previous suit which was decided by the learned civil court was filed for seeking the relief of permanent injunction **from interfering or causing to interfere in the possession and from taking forcible possession of the house** situated at Village Balamgarh, Patiala. In the said previously filed and decided suit, it was held by the learned civil court that "the defendant cannot be considered to be owner of the property in dispute but she has proved that she is in possession of the same." Accordingly, the counter claim of the defendant was partly decreed. In view of the fact that the suit decided prior did not deal with the point of alienation and the ownership of the defendant was not substantiated by the evidence put forth in that case, this court finds that there is no ground to dismiss the present suit at the threshold.*

9. Therefore, in light of the above discussion, the present application stands dismissed. Application disposed off."

3. In the aforementioned circumstances, the present revision petition has been filed before this Court.

4. I have heard learned counsel for the petitioner and perused the paper book with his able assistance.

5. At the outset, it is required to be mentioned that as per settled law, no material except the plaint or the documents annexed with the plaint can be considered at the stage of consideration of application under Order 7 Rule 11 CPC. Before this Court, it has been vehemently argued that the plaint (Annexure P-2) filed by the respondent was liable to be rejected on

account of res judicata, as an earlier suit between the same parties already stood decided vide judgment and decree dated 31.05.2022 passed in civil suit bearing No. CS/109/2018 and even an appeal filed against the same, has been dismissed by the learned Additional District Judge, Patiala, vide judgment and decree dated 29.09.2023.

6. I have considered the aforesaid submissions raised on behalf of the petitioner; however, suffice it to say that the Hon'ble Supreme Court in the case titled as ***“Keshav Sood Versus Kirti Pardeep Sood and others”***, Civil Appeal No.5841 of 2023, decided on 12.09.2023, has clearly held that the issue of res judicata could not have been decided on an application under Rule 11 Order 7 of CPC, as the adjudication thereof involves consideration of the pleadings in the earlier suit, the judgment of the Trial Court as well as the Appellate Courts.

6.1 In view of the aforesaid authoritative pronouncement made by the Hon'ble Supreme Court, there is no merit in the aforesaid plea raised by learned counsel for the petitioner and the same is rejected.

7. That apart, an application under Order 7 Rule 11 CPC for rejection of plaint cannot be allowed on premise of limitation alone, as it is a mixed question of fact and law. In this regard, reference can be made to the judgment passed by the Hon'ble Supreme Court in the case of ***“Kula Bhandu Ram Adarsh Sharma Vs. Nam Estates Private Limited and another”***, Civil Appeal No.1143 of 2025, decided on 02.09.2025.

8. Still further, the Hon'ble Supreme Court in the case of ***“Ajay Solanki Vs. Parvesh Kumar***, Special Leave to Appeal (C) No.13655 of 2024, decided on 11.07.2024, held that the objection regarding

maintainability of the suit does not strictly falls within the ambit of Order 7 Rule 11 CPC.

9. It is also well settled that inconsistent averments in the plaint are not sufficient to reject the plaint under Order 7 Rule 11 CPC. In this regard, reference can be made to the judgment passed by the Hon'ble Supreme Court in the case of "*G. Nagaraj and another Vs. B.P. Mruthunjayanna and another*, 2023(2) RCR(Civil) 567.

10. As regards the other objections raised by the petitioner in his application under Order 7 Rule 11 of CPC, I am of the considered view that the same would require leading of evidence and same cannot be considered while deciding an application under Order 7 Rule 11 of CPC.

11. Considering the totality of circumstances of the case and for the reasons mentioned above, I find no merit in the present revision petition and the same is, accordingly, dismissed.

12. All pending application(s), if any, shall also stand closed.

02.07.2026
Pd

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No