

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****258****CR-6083-2024(O&M)****Date of decision: 23.02.2026****Vikram Saini****...Petitioner(s)****Vs.****Shilpa & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. Ishmeet Singh, Advocate
for the petitioner.

*********NIDHI GUPTA, J.**

Present Revision Petition has been filed by the defendant No.1 seeking setting aside of the order dated 05.09.2024 (Annexure P3) passed by the learned Civil Judge (Junior Division), Jagadhri, whereby application filed by the petitioner under Order 7 Rule 11 CPC, has been dismissed.

2. Brief facts of the case are that the plaintiff/respondent No.1 had filed a Civil Suit No.1608 dated 05.07.2024 (Annexure P1) for permanent injunction against the petitioner/defendant No.1 and the defendants No.2 and 3/pro-forma respondents No.2 and 3 herein. In the said suit, the defendants had filed application dated 17.07.2024 (Annexure P2) under Order 7 Rule 11 CPC. The plaintiff had filed reply dated 18.07.2024 to the said application. Vide impugned order dated 05.09.2024 (Annexure P3), application of the defendants has been dismissed.



3. It is inter alia submitted by learned counsel for the petitioner that the trial Court was in error in dismissing the application as it had failed to appreciate that it was clear from the averments made in the plaint that the plaintiff is not in possession of the suit property. Therefore, simplicitor suit for permanent injunction, was not maintainable. The remedy available to the plaintiff is to seek declaration as well as possession; and thereby affix ad valorem Court fee. Thus, the impugned order is on the face of it illegal and unsustainable. Accordingly, setting aside of the impugned order is prayed for.

4. No other argument is made on behalf of the petitioner.

5. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the petitioner.

6. A perusal of the plaint (Annexure P1) shows that plaintiff has sought decree for permanent injunction restraining the defendants from interfering in actual, physical and peaceful possession of the plaintiff over the land measuring 2K-12.3M; **and** further restraining the defendants from dispossessing the plaintiff from the suit land forcibly, and illegally themselves or through their agent, servant and representatives or in any manner whatsoever.

7. It is the pleaded case of the plaintiff that vide Sale Deed No.204 dated 28.04.2023 and Sale Deed No.224 dated 03.05.2023 and Sale Deed No.225 dated 03.05.2023, the defendants had sold the suit property to the plaintiff and the father-in-law of the plaintiff. As per the plaint, the sale deed



no. 204 was executed in favour of the plaintiff, and defendant no. 1 has handed over the actual and physical possession of the suit land to the plaintiff. Since 28.04.2023, the plaintiff is cultivating her land through her husband and father-in-law without any interruption. Thus, plaintiff has clearly pleaded that she is in possession of the suit land. Even no prayer for grant of possession has been made in the plaint.

8. A perusal of the application filed by the defendants under Order 7 Rule 11 CPC (Annexure P2) shows that a contrary averment has been made by the defendants that plaintiff is not in possession of the suit property. However, only a bald statement to this effect has been made; without mentioning any attendance circumstances, as to how defendant claims to be in possession. It is also to be noted that nothing has been pointed out by learned counsel for the petitioner to the effect that petitioner has filed written statement to the suit. Therefore, in the absence of written statement, the question asked to whether or not plaintiff is in possession of the suit property or not is a matter of trial and can be ascertained only upon leading of evidence by the parties. In the plaint, the plaintiff has clearly stated that she is in possession of the suit property. As such, this question can be ascertained by the learned trial Court only upon leading of evidence.

9. The Hon'ble Supreme Court in numerous judgments including **"Eldeco Housing and Industries Ltd. Vs. Ashok Vidyarthi & Others"** Law Finder Doc ID # 2406865, has repeatedly held that no evidence, or merits



of the controversy can be examined at the stage of deciding rejection of a plaint in an application under Order 7 Rule 11 CPC; and that only the averments made in the plaint would be relevant for invoking Order 7 Rule 11 CPC. In **“Kamala & Others Vs. K.T. Eshwara Sa & Others” 2008 (12) SCC 661**, it is held that in an application under Order 7 Rule 11 CPC, no evidence can be looked into; issue on merits of the matter would not be within the realm of the Court at that stage; and the Court would not decide any evidence or disputed question of fact or law. Reference may also be made to three-Judge Bench judgment of Hon’ble Supreme Court in **“Srihari Hanumandas Totala Vs. Hemant Vithal Kamat & Others” Law Finder Doc ID # 1865777**, wherein it has been categorically held that *“...In order to reject a plaint for the suit being barred by any law under Order 7 Rule 11(d), the court needs to be guided by the averments in the plaint and not the defence taken.”* It has been categorically held that the grounds taken by the defendant as defence cannot be taken into account while rejecting a plaint under Order 7 Rule 11 CPC. Relevant part of the said judgment is as under:-

“16. Order 7 Rule 11(d) of CPC provides that the plaint shall be rejected "where the suit appears from the statement in the plaint to be barred by any law". Hence, in order to decide whether the suit is barred by any law, it is the statement in the plaint which will have to be construed. The Court while deciding such an application must have due regard only to the statements in the plaint. Whether the suit is barred by any law must be determined from the statements in the plaint and it is



not open to decide the issue on the basis of any other material including the written statement in the case....”

10. Clearly, therefore, for invoking Clause (d) of Order 7 Rule 11 CPC, only the averments made in the plaint are relevant and for that purpose there cannot be any addition or subtraction. It is the duty of the Court to scrutinise the pleas in the plaint, and the matter is to be decided only on the plaint averments. Relevant findings of the learned trial Court as contained in Paras 5 and 6 of the impugned order dated 05.09.2024, are as under:-

“5. It is settled principal of law that for the purpose of Order VII Rule 11 CPC, only the averments of the plaint are to be looked into and it has to be ascertained what is substantial relief claimed by the respondent/plaintiff. In case law titled as Keshav Sood Versus Kirti Pradeep Sood and Ors. CA no. 5841 of 2023, the Honble Apex Court held that "as far as scope of Rule 11 of Order VII CPC is concerned, the law is well settled. The Court can look into only the averments made in the plaint and at the highest, documents produced alongwith the plaint. The defence of a defendant and documents relied upon by him cannot be looked into while deciding the such application."

6. In view of the law above, it is clear that the court cannot travel beyond the four corners of the plaint while deciding an application under Order 7 Rule 11 of CPC. A perusal of the plaint shows that specific averment regarding possession of the suit property has been made in favour of the plaintiff. The argument of the applicant that he is in possession and not the respondent is the matter of trial and cannot be commented upon at this



stage. Similarly, the argument that the sale deed is a sham transaction is also required to be proved by way of evidence. Therefore, the ground raised by the applicant that a suit simplicitor for permanant injunction without claiming the relief of possession and declaration is not maintainable, cannot be decided by a mere perusal of the plaint as the same requires trial. Lastly, mis-joinder of parties is not a ground for rejection of plaint.”

11. Learned counsel for the petitioner is unable to dispute or controvert the afore-noted factual and legal position.
12. In view of the above, present petition stands **dismissed**.
13. Pending application(s) if any also stand(s) disposed of.

23.02.2026

Sunena

(Nidhi Gupta)
Judge**Whether speaking/reasoned: Yes/No****Whether reportable: Yes/No**