

CNR No. PBPTA0-001549-2022

Manmit Kaur vs Mani Singh CS-1193-2022

Present: Sh. Tarun Mehta Advocate, Counsel for plaintiff

Sh. S.S. Ahluwalia Advocate, Counsel for defendants

Application under order 7 Rule 11 CPC for rejection of plaint

Order:

This order shall dispose of an application under order 7 Rule 11 CPC for rejection of plaint moved by the defendants.

2. It is averred in the application that plaintiff has filed the suit seeking relief for declaration, joint possession, permanent injunction and cancellation of registered transfer deed dated 30.01.2020 executed by defendant no. 1 in favour of defendant no. 2 qua the suit property. The suit is liable to be dismissed for not disclosing any cause of action. It is further pleaded that plaintiff has to setup a clearcut case in the pleadings as to how HUF and its properties came into existence. Further, it is necessary for the plaintiff to place on record any document to show that the suit property was thrown into a common hotchpotch by the person inheriting the property from his parental ancestral. It is further stated that it is the admitted case of plaintiff that the defendant no. 1 has succeeded the suit property from his late father Sh. Balwant Singh. However, the plaintiff has misinterpreted the facts and has intentionally not disclosed that she is not in good relations with defendant no. 1 & 2. It is further averred that as per the fard filed by plaintiff it is clear that the suit property had devolved upon the defendant no. 1 by way of partition with the Samund Singh of the lands allotted to Janga Singh. Thus, the suit property is self-acquired

property. The plaintiff is asserting rights in the property of her father/defendant no.1 however, there is no pleadings to effect that there was any coparcenary of her father/defendant no. 1. It is further stated that plaintiff is seeking the possession of the suit property but has neither valued the suit property as per the market rate nor has not deposited the court fee as per Court fee Act. At last, prayed that application be allowed.

3. Upon notice, the plaintiff/respondent submitted the reply and stated that plaintiff is the daughter of defendant no. 1 and sister of defendant no. 2. The property has come to the father of plaintiff is ancestral property. Thus, the same could not have been alienated without consent of the plaintiff. The plaintiff rightfully and legally has a right over the ancestral property, which was in the name of her father. It is further stated that the defendants have filed the present application just to linger on the matter and to harass the plaintiff. Rest all the averments made in the application are denied. At last, prayed for the dismissal of the application.

4. Ld. counsel for defendants argued that present suit has been filed without any cause of action. In order to seek the ancestral property under the coparcenary joint Hindu family/HUF there are certain principals in law and facts that are required to be established to ascertain the property being HUF in the plaint under the Hindu Law: (i) Date of death of father and grandfather (ii) When did the property(s) were inherited as HUF by the successors. (iii) Whether the inheritance was prior to or after the 1956 of Hindu Succession Act. (iv) Details facts are required under O. VI and R. 4 CPC as to whom and how the properties have become HUF

that must be categorically averred in the plaint with the factual references. It is further submitted that all the abovesaid points have not been mentioned in the plaint. The plaintiff has not mentioned the date of death of Balwant Singh (grandfather) and the death of Janga Singh (great grandfather). Further, there is no mention of the undivided property between the defendant no. 1 and his later brother Samud Singh. The plaintiff has not mentioned about the date of inheritance of HUF by defendant no. 1 along with his brother. The plaintiff has not even mention that when the suit property was divided/partitioned between defendant no. 1 and Samud Singh. There are no pleadings to the effect to the coparcenary of defendant no. 1 and how the HUF comes into existence in law pertaining to the suit property. It is further stated that in the present case the plaintiff has not pleaded in the plaint that the suit property was thrown into a common hotchpotch by defendant no. 1 and his brother or by their later father Balwant Singh while the inherited the property from their paternal ancestor as HUF. The plaintiff has no right to seek a partition from her father/defendant no. 1 from his share of suit property under Hindu Succession Act. Ld. Counsel for defendants relied upon the following judgements; Commissioner of Wealth Tax, Kanpur and others Vs. Chander Sen and others 1986(3) SCC 567, Yudhishter Vs Ashok Kumar (1987) 1 SCC 204, Suraj Munjal Vs. Chandan Munjal and others 257(2019) DLT 597 (DB), Akshat Mittal & Ors VS Renu Mittal & Ors 300 (2023) DLT 468, Arshiya Gulati (Minor) Thr. Next friend & Ors Vs Kuldeep Singh Gulati & Ors 257 (2019) DLT 550, Ved Parkash Vs Naresh Kumar & Ors 297 (2023), Sangeeta Vs Ramphool @ bobby 2017(1) SLJ

Del and Dahiben Vs. Arvindbhai Kalyanai Bhanusali 2021(1) CLJ 397 (SC). At last prayed that application be allowed and plaint be rejected.

5. Per contra. The Ld. Counsel for plaint argued that plaint sufficiently discloses a cause of action as plaintiff has specifically pleaded the properties under subject matter form part of Joint Hindu Family estate. He further contented the judgements relied upon by Ld. Counsel for defendants are the ones which deal with properties of Hindu Female, under Section 15 of the Hindu Succession Act, hence the same are not applicable to the facts of the present case. At last, prayed that application be dismissed with costs.

6. Heard. Record perused minutely with the able assistance of Ld. Counsel for the plaintiff and Ld. Counsel for the defendants.

7. At the outset, it is essential to reiterate that the Court is thoroughly aware of the serious implications associated with invoking the provisions under Order VII Rule 11 of CPC to reject a suit at its nascent stage. The rejection of a plaint is a substantive action that must be exercised strictly within the confines of the conditions laid down under Order VII Rule 11 CPC. The aforementioned provision is not intended to serve as a tool for preliminary scrutiny or speculative application, rather, it necessitates a meticulous analysis of the pleadings contained in the plaint to determine whether the statutory prerequisites for maintaining a suit have been fulfilled.

8. Additionally, it merits emphasis that ordinarily, a suit should proceed to trial, given the narrow ambit of the powers of the Courts under Order VII Rule 11 of CPC. The remedy envisaged under this Rule is a

self-contained and distinct procedural device that enables a Court to summarily reject a plaint at the threshold, without embarking upon a full trial or recording of evidence. The objective behind this provision is to weed out meritless suits, prevent the abuse of judicial process, minimize avoidable litigation costs, and ensure efficient deployment of judicial resources towards disputes warranting substantive adjudication. In **Dahiben v. Arvindbhai Kalyanji Bhanusali 2021(1) C.J.L. 397(SC)**, the Hon'ble Supreme Court has enumerated the specific grounds for rejection under this Rule, namely where the plaint: (i) fails to disclose a cause of action; (ii) is undervalued and the deficiency is not rectified within the time granted; (iii) is insufficiently stamped and the deficit remains uncured despite opportunity; (iv) is barred by any provision of law; (v) is not filed in duplicate; or (vi) is in breach of any mandatory procedural requirement under CPC. Further, the proviso appended to Rule 11 empowers the Court, in exceptional circumstances, to grant time for curing procedural defects so as to avert manifest injustice.

9. To ascertain whether the plaint discloses cause of action or not, the averments made in the plaint only have to be seen. Whether a plaintiff discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. In ascertaining whether the plaint shows a cause of action, the court is not required to make an elaborate enquiry into doubtful or complicated questions of law or fact. The defence

set up by defendants cannot be looked into for determining whether plaint discloses a cause of action.

10. In aforesaid background of legal position, a meaningful reading of the plaint discloses that plaintiff has challenged transfer deeds bearing Wasika number 2019-20/9/1/4323 dated 30.01.2020 and deed bearing Wasika no. 2019-20/9/1/4325 dated 30.01.2020 executed by defendant no.1 in favour of defendant no.2 while seeking declaration and joint possession along consequential relief of injunction inter-alia on the ground that property in question constitutes part of Hindu Joint Family. Further in Para 2 of the plaint, plaintiff has specifically pleaded that suit property is a joint Hindu family/ coparcenary and ancestral property which defendant no.1 succeeded from his father- Balwant Singh who also succeeded from his father, Jagat Singh, on the basis of natural succession. Thus, the pleadings in the plaint, corroborated by documentary material, prima facie reflected the intention of plaintiff to treat the properties under subject as part of the HUF estate/ancestral. Whether the suit properties constitute ancestral properties forming part of an HUF corpus, or are self-acquired properties of individual members/defendant no.1 in present case, whether plaintiff has any right therein are contentious factual issues that necessitates adjudication at trial and cannot be summarily determined at the stage of considering an application under Order VII Rule 11 of CPC.

11. The principal contention raised by applicants/defendants that plaint does not discloses cause of action as plaintiff failed to plead material particulars for treating the suit property as ancestral such as date of inheritance, existence of coparcenary or throwing of property into

common hotch potch and that after the commencement of Hindu Succession Act, 1956, the property inherited by defendant no.1 is to be treated as his self-acquired property, are matters which fall within the realm of evidence and trial. The argument advanced by the defendants that plaint lacks detailed particulars essentially, calls upon Court to test the sufficiency and truthfulness of the pleadings without even affording opportunity to plaintiff to lead any evidence in support thereof, is impermissible at this stage. Deficiency in particulars cannot be equated with absence of cause of action in terms as envisaged under Order 7 Rule 11 CPC. The judgments relied upon by counsel for defendants are distinguishable on the facts of present case.

12. With regard to objection of applicants/defendants regarding court fee, it is noted that the Hon'ble Supreme Court in case of **Suhrid Singh @ Sardool Singh vs Randhir Singh (AIR 2010 Supreme Court 2807)**, has observed that if a non- executant, is not in possession, and he seeks not only a declaration that the sale deed is invalid, but also the consequential relief of possession, he has to pay an ad-valorem court fee as provided under Section 7(iv)(c) of the Act. Section 7(iv)(c) provides that in suits for a declaratory decree with consequential relief, the court fee shall be computed according to the amount at which the relief sought is valued in the plaint. The proviso thereto makes it clear that where the suit for declaratory decree with consequential relief is with reference to any property, such valuation shall not be less than the value of the property calculated in the manner provided for by clause (v) of Section 7. In the present case, plaintiff has sought declaration to the effect that

transfer deeds dated 30.01.2020, executed by defendant no.1 in favour of defendant no.2 are illegal, null and void, and are not binding on the rights of the plaintiff and accordingly challenged mutation entries. Further, plaintiff has also sought consequential relief of joint possession. Thus, plaintiff being non executant of deeds, seeks to challenge on the ground that properties in question are ancestral property or part of coparcenary and has specifically sought joint possession. However, perusal of para 10 of plaint reflects that plaintiff has valued the present suit for the purpose of court fees and jurisdiction only for the relief of declaration and permanent injunction. However, plaintiff has failed to affix the court fees regarding the relief of joint possession in accordance with Section 7(iv) (c) read with Section 7(v) of the Court Fees Act 1870. Accordingly, the plaint is found to be deficient in court fees. In the interest of justice, plaint is not rejected at threshold without affording an opportunity to make good the deficient court fees.

13. In the light of above discussion, the present application stands disposed of. Plaintiff is directed to make good the court fees in accordance with Section 7(iv)(c) read with Section 7(v) of the Court Fees Act 1870 on or before the next date of hearing, failing which the plaint shall be rejected under order 7 rule 11 of CPC. Now to come up on 01.05.2026 for making good the deficient court fees.

Date of Order 10.04.2026
Ruhi Gupta Stenographer II

(Simranpreet Kaur)
CJD/Rajpura
UID No . PB0806

CNR No. PBPTA0-001549-2022

Manmit Kaur VS Mani Singh CS-1193-2022

Present: Sh. Tarun Mehta Advocate, Counsel for plaintiff

Sh. S.S. Ahluwalia Advocate, Counsel for defendants

Arguments heard. Vide my separate detailed order of even date application under order 7 rule 11 CPC for rejection of plaint stands disposed of. Plaintiff is directed to make good the court fees in accordance with Section 7(iv)(c) read with Section 7(v) of the Court Fees Act 1870 on or before the next date of hearing. Now to come up on 01.05.2026 for making good the deficient court fees.

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