

**2023 LiveLaw (SC) 517**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**A.S. BOPANNA; J., M.M. SUNDRESH; J.**

**CIVIL APPEAL No. 4221 of 2023 (Arising out of SLP(C) No.9921/2019) 6 July, 2023**

**SAJJAN SINGH versus JASVIR KAUR & ORS.**

**Code of Civil Procedure, 1908; Order VII Rule 11 - Whether an appropriate prayer should have sought, is a matter ultimately to be decided in the suit and not an issue to be considered while deciding the application under Order VII Rule 11 of CPC. (Para 5)**

(Arising out of impugned final judgment and order dated 25-03-2019 in CR No. 16474/2018 passed by the High Court of Punjab & Haryana at Chandigarh)

*For Petitioner(s) Mr. Himanshu Sharma, AOR Mr. Ram Niwas Sharma, Adv. Ms. Aditi Sharma, Adv. Mr. Arun Kumar, Adv. Mr. Rahul Jasoria, Adv. Mr. Nitin Sharma, Adv. Mr. Nikhil Bajaj, Adv. Ms. Anshita, Adv. Mr. Digvijay Singh Raghav, Adv. Mr L.S. Mann, Adv.*

*For Respondent(s) Mr. Abhinay, AOR Ms. Sumati Jund, Adv. Mr. L.k. Srivastava, Adv.*

**ORDER**

1. Leave granted.
2. Heard the learned counsel for the appellant as also the learned counsel for the respondents and perused the appeal papers.
3. In a suit filed by the appellant herein, the respondents filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (*for short 'CPC'*) which was, at the first instance, dismissed by the Trial Court through its order dated 30.10.2017. The respondents were therefore before the High Court in a Revision Petition. The High Court having considered the matter, has through its order dated 25.03.2019, allowed the Revision Petition, and as a consequence, the application filed under Order VII Rule 11 of CPC was allowed and the plaint was rejected. It is in that light, the appellant is before this Court.
4. Having heard the learned counsel for the parties, we have taken note that the grievance essentially put forth by the respondents for which an application under Order VII Rule 11 was filed, is that the appellant herein, had not sought for an appropriate prayer to declare the sale deeds dated 03.12.2015 and 26.02.2016 as illegal, null and void and no court fee in that regard was paid.
5. To that extent, we take note that the prayer, as made, in any event, had been valued and the court fee has been paid. Whether an appropriate prayer should have sought, is a matter ultimately to be decided in the suit and not an issue to be considered while deciding the application under Order VII Rule 11 of CPC, in the manner in which it had been done in the facts and circumstances arising in the instant case. Therefore, to that extent, we are of the opinion that the High court was not justified.
6. Hence, the Order dated 25.03.2019 passed by the High Court of Punjab and Haryana at Chandigarh is set aside. The Civil Suit bearing C.S. No. 192/2016 dated 26.09.2015 is restored to the file of the learned Additional Civil Judge(SD),Khamnon, District Fatehgarh Sahib, Punjab to proceed further in the matter.
7. The contentions, as put forth by the respondents herein, in the Order VII Rule 11 application, is open to be taken up in the written statement and the Trial Court will frame appropriate issues in that regard and all contentions are left open for the parties to be urged in that regard.
8. Appeal is accordingly disposed of along with the pending application(s), if any.