

CR-2774-2015 (O&M)

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

**CR-2774-2015 (O&M).
Decided on: April 27, 2015.**

Renu Bakshi

..... Petitioner(s)

Versus

Prem Parkash Sharma and another

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.O.S.Batalvi, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL).

There appears to be dispute amongst family members. The petitioner has filed a suit for declaration that she is owner to the extent of 1/7th share in the property in dispute and had sought a declaration that Wills dated 18.7.1994 and 1.12.1993 purported to have been executed by late Captain Ram Nath Sharma are illegal, null and void and inoperative on the rights of the petitioner. Respondents Prem Parkash Sharma and Satish Chander Sharma have filed a suit for mandatory injunction against petitioner directing her to quit and remove her belongings from the property in dispute. An application filed by the petitioner under Section 10 of the Code of Civil Procedure, for staying the proceedings in suit for mandatory injunction has been dismissed on the ground that the subject matter of the second suit is not directly and substantially in issue in the previously instituted suits between the parties. However,

CR-2774-2015 (O&M)

the legality of the same Will appears to be common feature in both the cases.

After going through the contents of the complaints in both the cases, I do not find any illegality in the order dismissing the application under Section 10 of the CPC, filed by the petitioner (defendant in the second suit).

Counsel for the petitioner has vehemently contended that the dispute is amongst the same parties pertaining to the same property and both the suits involve similar controversy, as such they should be clubbed and decided together.

I have heard the learned counsel for the petitioner and I am of the opinion that the said contention of learned counsel for the petitioner cannot be appreciated in the present revision petition.

This petition is disposed of without prejudice to the rights of the petitioner to file a petition before the District Judge and seek transfer of both the suits before same Court in order to avoid conflicting decisions. It is observed that it will always be open to the discretion of the Court concerned to order the clubbing of the suits or to adjudicate both the cases simultaneously.

April 27, 2015.
rka

(M.M.S. BEDI)
JUDGE