

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 3113 of 2015 (O&M)
Date of decision: 3.7.2015

Sanjeev Soin alias Sanjeev

.. Petitioner

v.

Manju and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ashwani Mata, Senior Advocate with
Mr. Rohit Khanna, Advocate for the petitioner.

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Rajesh Bindal J.

Challenge in the present petition is to the order dated 18.4.2015, passed by the learned court below, whereby the application filed by the petitioner under Order 7 Rule 11 CPC for rejection of the plaint, was dismissed.

Learned counsel for the petitioner submitted that respondents No. 1 to 3 filed a suit against mother-in-law of respondent No. 1, namely, Kailashwati Soin (respondent No. 6) challenging the Will dated 31.1.1999 and civil court decree dated 14.11.2011 passed in the case titled as “Kailashwati Soin v. Rajiv Kumar and others”. In the aforesaid suit, application under Order 7 Rule 11 CPC was filed by then defendant-Kailashwati Soin, which was rejected by the trial court. The order was impugned before this court by filing Civil Revision No. 3730 of 2014, which was disposed of vide order dated 16.12.2014 permitting the petitioner therein to withdraw the petition with liberty to raise all the issues before the trial court in the pending suit. The court below was also directed to dispose of the suit within a period of three months from the date of receipt of copy

of the order. There were technical defects in the suit as the parties were not impleaded and a separate suit for challenging the decree of the court was not maintainable. Subsequently, the plaintiffs filed application for impleading Sanjeev son of Tilak Raj, Anita Dawar daughter of Shri Tilak Raj and Sarita Luthra daughter of Shri Tilak Raj, as defendants in the suit. The same was allowed by the learned court below vide order dated 22.1.2015. As despite the parties being impleaded, there was still no allegation or relief claimed against the newly added defendants, the plaint deserves to be rejected. In support of the plea, reliance was placed upon judgments of Hon'ble the Supreme Court in T. Arivandandam v. T. V. Satyapal, AIR 1977 SC 2421; I.T.C. Limited v. Debts Recovery Appellate Tribunal and others, (1998) 2 SCC 70; Sopan Sukhdeo Sable and others v. Assistant Charity Commissioner and others, (2004) 3 SCC 137; Popat and Kotecha Property v. State Bank of India Staff Association, (2005) 7 SCC 510; Ram Prakash Gupta v. Rajiv Kumar Gupta and others, (2007) 10 SCC 59 and Abdul Gafur and another v. State of Uttarakhand and others, (2008) 10 SCC 97 and judgment of Delhi High Court in Manmohan Singh v. Joginder Kaur, 2002(4) RCR (Civil) 157.

After hearing learned counsel for the petitioner, I do not find any reason to interfere with the impugned order. The suit was filed by respondents No. 1 to 3 on 26.9.2012. Earlier, the application filed by the sole defendant-Kailashwati Soin for rejection of the plaint was dismissed by the trial court. The order was impugned by filing Civil Revision No. 3730 of 2014, which was disposed of on 16.12.2014. The same is extracted below:

“Learned counsel for the petitioner requests for withdrawal of this petition with liberty to take all the pleas taken in the application (Annexure P/4) under Order VII Rule 11 read with Section 151 CPC under relevant provisions as these aspects are necessary to be adjudicated in the matter in controversy in the light of the evidence to be led by the parties. He also urges that some time limit may be fixed for adjudication of the matter by the trial court finally.

Dismissed as withdrawn with liberty as prayed for. In the

given circumstances, it is directed that the trial court would see that proper issues are framed on these aspects and would afford three effective opportunities to both the parties to lead their respective evidence and if need be to continue day-to-day proceedings so that complete, effective and wholesome adjudication is made. The entire process till decision on merits would be completed within a period of three months from the date of receipt of copy of this order.”

Thereafter, the plaintiffs filed application for impleading additional defendants, which was allowed by the trial court vide order dated 22.1.2015. The impugned order, vide which the application under Order 7 Rule 11 CPC filed by one of the newly added defendants was dismissed, shows that some other applications were also pending. The order of one of them, which was disposed of on 27.4.2015 was for permitting defendant No. 1 to file fresh written statement after the written statement was filed by newly added defendants in the suit. Further, a perusal of the order dated 4.5.2015 produced on record shows that issues were framed and the case was fixed for evidence of the plaintiffs. The court in the aforesaid order has specifically noticed that the case is to be disposed of early in view of the directions issued by this court on 16.12.2014.

Considering the earlier order passed by this court on 16.12.2014 and the fact that the defendants impleaded originally and subsequently are not letting the trial to proceed by filing one application or the other, in my opinion, no interference is called for in the present petition at this stage as the suit itself has been directed to be disposed of expeditiously.

Accordingly, the present petition is dismissed.

(Rajesh Bindal)
Judge

3.7.2015
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(Refer to Reporter)