

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

CR No.5389 of 2015 (O&M).

Date of Decision: 21.08.2015.

Chand Ram and others

....Petitioners.

VERSUS

Ved Parkash and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Navneet Singh, Advocate for the petitioners.

SNEH PRASHAR, J.

This is a petition under Article 227 of Constitution of India for setting aside the order dated 03.08.2015 passed by learned Civil Judge (Junior Division), Sonipat, vide which the application under Section 10 of the Code of Civil Procedure (for short, "C.P.C.") filed by the petitioners for stay of proceedings of the suit, was dismissed.

The facts which gave rise to the instant revision petition are that civil suit No.141/RT dated 28.09.2011 for declaration and possession with consequential relief of permanent injunction was filed by the respondents against the petitioners which was pending before Civil Judge

(Junior Division), Sonipat. Invoking the provisions of Section 10 C.P.C., petitioners filed an application for stay of proceedings of the said suit. Finding the application not maintainable the same was dismissed by learned trial Court vide the impugned order dated 03.08.2015.

Feeling aggrieved by the said order passed by learned Civil Judge (Junior Division), Sonipat, the petitioners filed the instant petition.

The submissions made by learned counsel representing the petitioners have been considered.

It is submitted by learned counsel for the petitioners that a suit under Section 13-A of the Punjab Village Common Lands Act (for short, “the P.V.C.L. Act”) had been filed by the petitioners-defendants against the respondents-plaintiffs which was pending before Collector, Sonipat. The matter in issue in the said suit was the same as was the subject matter in the suit filed by the respondents. Since their suit was prior in time they filed an application for stay of the suit filed by the respondents before Civil Judge (Junior Division). Learned counsel contended that even if the case was not covered by Section 10 C.P.C. learned trial Court was empowered to stay the civil suit exercising discretion under Section 151 C.P.C. To support his argument, learned counsel relied upon ***Oil and Natural Gas Commission, Nazira vs. Ganesh Prasad Singh and others, 1983 AIR (Gauhati) 8.***

There appears no merit in the argument of learned counsel for the petitioners. The case cited by him is distinguishable on facts. In the case in hand, the petition under Section 13-A of the P.V.C.L. Act filed by the petitioners is pending before Collector, Sonipat and not before the Civil

Court. As laid down by Hon'ble Supreme Court in **National Institute of Mental Health and Neuro Sciences Vs. C. Parameshwara, AIR 2005 (SC) 242** 'the language of Section 10 C.P.C. is referable for a suit instituted in a "civil court" and it could not apply to the proceedings of other nature instituted under any other statute'. Learned trial Court rightly relying upon the said law dismissed the application of the petitioners.

Thus, there being no illegality or perversity warranting interference in the order of learned trial Court, the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

21.08.2015.
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