

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.7916 of 2014

Date of decision: 06.10.2015

Harpal Singh

.....Petitioner

versus

Khushwinder Kaur and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Jai Bhagwan, Advocate for the petitioner
Mr.Sunny K. Singla, Advocate for respondent No.1 & 2

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 15.9.2014 (Annexure P5), passed by the learned Civil Judge, Junior Division, Malerkotla, vide which application of the present petitioner / plaintiff for consolidation of two civil suits i.e. Civil Suit No.86 of 25.4.2011 and Civil Suit No.69 of 3.3.2011 has been dismissed.

I have heard learned counsel for the parties and have also carefully gone through the file.

It comes out that the plaintiff filed the first Civil Suit No.69 on 3.3.2011 for mandatory and permanent injunction for directing the defendants to reconstruct the demolished wall in the disputed property. In the said case, Khushwinder Kaur and Kulwinder Singh are the defendants. Second Suit No.86 was filed in the month of

April 2011, wherein, in addition to Khushwinder Kaur, there are five other defendants, whereas Kulwinder Singh is not a party in the said suit. In the said suit, possession by way of partition of 1/4th share of the joint residential house was sought. It also comes out that by filing the present application, the said two suits were got transferred in one Court by the order of the District Judge, Sangrur dated 29.4.2014, wherein no prayer for consolidation was made. Now this application was filed on 9.5.2014 for consolidation of two cases. In one of the cases, evidence of the plaintiff is complete whereas the other case is stated to be fixed for evidence of the plaintiff.

I am of the view that the lower Court has rightly refused to consolidate the two cases. Only one party is common in both the cases. In the first case, only reconstruction of wall has been sought, whereas the second suit is against the co-owners claiming the partition. The cause of action is different and different evidence is required. Therefore, the lower Court has rightly refused the consolidation of two cases.

The revision stands dismissed.

06.10.2015

gk

**(Kuldip Singh)
Judge**