

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.8449 of 2014
DATE OF DECISION: February 16,2015

M/s Malibu Estate Pvt. Ltd.

....Petitioner

Versus

Subhram and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Anurag Jain, Advocate for the petitioner.
Mr.Anil Kumar, Advocate for respondent
Nos.1 to 4.

RAKESH KUMAR JAIN, J.(Oral)

This petition is directed against the order dated 4.9.2014 dismissing the application filed by the petitioner for clubbing two civil suits bearing No.21AL dated 29.1.2010 titled as Subhram and another v. M/s Malibu Estate Pvt. Ltd. (hereinafter referred to first suit) and another and bearing No.103AD dated 23.3.2010 titled as M/s. Malibu Estate Pvt. Ltd. and another v. Subhram and others (hereinafter referred to second suit).

Learned counsel for the petitioner has submitted that in the first suit, the plaintiffs sought a declaration that they are co-sharers and co-owners in possession of 1/4th

share of land comprised in khewat No.62, khatoni No.68, rectangle No.12, killa No.14/2 (2-4) situated within the revenue estate of village Fatehpur, Tehsil and District Gurgaon as per jamabandi for the year 2003-04. However, in the written statement, the petitioner has alleged that it had purchased the land falling in rectangle No.12 killa No.14/2(2-4), 17(2-2) total land measuring 4 kanals and 6 marlas to the extent of 3/4th share i.e. 3 kanals 5 marlas situated in the reveue estate of village Fatehpur, Tehsil and District Gurgaon vide sale deed bearing vasika No.14051 dated 6.2.1995.

In the second suit, the plaintiffs have sought a declaration that they are owners in possession of land falling in rectangle No.12 killa No.17 min south (1-1.5), agreed to be sold by the defendants therein vide agreement dated 25.4.2004.

In the first suit, the evidence is going on but in the second suit issues have not been framed so far.

It is submitted by learned counsel for the petitioner that in the first suit only the affidavits have been tendered in examination-in-chief but the witnesses have not been cross-examined. Learned counsel for the petitioner has submitted that the dispute in both the suits is with regard

to title over the property in dispute falling in rectangle No.12, killa No.14/2 (2-4). In the first suit, the respondents are claiming 1/4th share therein, whereas, in the second suit, the petitioner is claiming the entire land. It would be expedient to club both the suits so that evidence in one of the suits be recorded as lead case, by the trial Court and ultimately findings are given as to whether the petitioner is owner of the property in dispute or the respondents.

Learned counsel for the respondents has submitted that there is no error in the order of the Courts below because nature of both the suits are different because in the second suit, the plaintiffs are claiming specific performance as well.

After hearing learned counsel for the parties and examining the record of the case, I am of the considered opinion that the order passed by the Court below is patently erroneous because both of the suits have been filed within a gap of two months. The parties are claiming their title over the suit property on rectangle No.12, killa No.14/2(2-4) which can be decided in one case, in which the evidence could be recorded by the Courts below.

Since the decision of one case would ultimately affect the decision in the other case, therefore, the revision

petition is allowed. Both the suits are hereby ordered to be clubbed together and the trial Court is further directed to keep the first suit, filed by the respondents, as the lead case and also to frame additional issues with regard to pleadings of the second suit and allow the parties to lead evidence in the first suit as issues have already been framed and the parties are already leading their evidence.

February 16, 2015
KD

(RAKESH KUMAR JAIN)
JUDGE