

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

**CR No.2389 of 2016 (O&M)
Date of decision: 04.04.2016**

Satnam Singh

.....Petitioner

Versus

S.Lashkar Singh & others

.....Respondents

. . .

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

**Present: Mr. Anish Setia, Advocate
for the petitioner.**

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DARSHAN SINGH, J (ORAL)

The present revision petition has been preferred against the order dated 03.03.2016 passed by the learned Civil Judge (Sr. Divn.), Jalandhar, whereby the application filed by the petitioner/defendant No.1 seeking stay of proceedings has been dismissed.

2. Learned counsel for the petitioner contended that the present suit has been filed by respondents No.1 to 6/plaintiffs by concealing the material facts. He contended that earlier respondents No.1 to 6/plaintiffs, Sarwan Singh and the predecessor in interest of respondents No.5 and 6 namely Sucha Singh had filed the suit against the petitioner/defendants Satnam Singh and others seeking

declaration on the basis of the alleged Will dated 15.02.1996 with respect to the land in dispute. The said suit was dismissed and the Will propounded by the plaintiff was discarded. The regular second appeal in that suit is still pending before this Court. He contended that the parties, suit property and the matter in issue involved in the previous and the present suit are the same. All these facts have been concealed by the plaintiffs in the present suit. He contended that the suit of the plaintiffs/respondents is barred under Order 2 Rule 2 of Code of Civil Procedure, 1908 (for short "CPC") and the same was required to be stayed till the pendency of the regular second appeal before this Court.

3. I have duly considered the aforesaid contentions.

4. The copy of the application filed by the petitioner for staying the proceedings of the present suit is Annexure P-5. The stay application has simply been filed by the petitioner on the ground that the plaintiffs/respondents have concealed the facts in the present suit. No specific plea in the application has been taken that the present suit is barred under Order 2 Rule 2 CPC. The earlier suit was filed by the plaintiffs/respondents Sarwan Singh and Sucha Singh for seeking declaration with respect to title of the estate left by deceased Amar Singh on the basis of the alleged Will dated 15.02.1996. The present suit has been filed by the plaintiffs/respondents seeking the possession of the residential

house No.BX-574/3 Mohalla Kishanpura, Jalandhar and have challenged the sale deed dated 21.12.2010 executed by defendant No.1 in favour of defendants No.2 to 4. This fact is not disputed that the previous suit was filed in the year 1996 whereas the sale deed challenged in the present suit is dated 21.12.2010 which has come into existence much after the institution of the previous suit. So, the petitioner cannot take the plea of Order 2 Rule 2 CPC. The validity of the sale deed dated 21.12.2010 was never in issue in the previous suit. Thus, there was no reason to stay the proceedings of the present suit.

5. Consequently, I do not find any illegality in the impugned order. Resultantly, the present revision petition being without any merit, is hereby dismissed.

04.04.2016
Vinay

[DARSHAN SINGH]
JUDGE