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

Civil Revision No.5198 of 2016

Date of Decision: 16.08.2016

RAJU SHARMA

.....Petitioner

Vs

SHIV KUMAR & ORS.

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ram Bilas Gupta, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Petitioner has assailed order dated 20.07.2016 (Annexure P-6) passed by Civil Judge (Jr. Divn.) Faridabad vide which prayer for consolidation of two suits was rejected.

[2]. Plaintiff sought consolidation of suits on the ground that both the cases i.e. Civil Suit No.RBT 244 of 12.11.2010 titled as Raju Sharma vs. Shiv Kumar and others and Civil Suit No. RBT 257 of 16.02.2011 titled as Om Parkash vs. Shiv Kumar have common cause of action involving the same property. Plaintiff of Civil Suit No.RBT 257 of 16.02.2011 opposed the prayer on the ground that suit for permanent injunction was not maintainable and was beyond period of limitation. He is not party in the suit

titled as Raju Sharma vs. Shiv Kumar and others and, therefore, both the suits are distinct in nature.

[3]. Suit titled as Raju Sharma vs. Shiv Kumar and others has been filed by the plaintiff against three defendants namely Shiv Kumar, State of Haryana through Land Acquisition Collector office of HUDA Sector 12 and Land Acquisition Collector, office of HUDA Sector 12, Faridabad for a relief of permanent injunction, whereas suit titled as Om Parkash vs. Shiv Kumar has been filed against Shiv Kumar alone for a relief of specific performance of contract.

[4]. Apparently Om Parkash was not a party to the earlier suit of permanent injunction. The evidence in one suit in any case will not be relevant in another suit inasmuch as that Om Parkash may not get any chance to examine or cross-examine the witnesses produced by the plaintiff in earlier suit as he is not party to the same. The consolidation of suits may lead to an anomalous situation thereby adding ambiguity in view of different evidence led in different suits by different parties. Consolidation of suits would not harmonize the pleadings and nature of evidence to be led in both the suits, nor would enable the Court to arrive at homogenous conclusion based on different pleadings and different evidence to be led in both the suits.

[5]. Learned counsel for the petitioner on the strength of **Smt. Swaroop Kumari Bakshi vs. State of U.P. and others, 2009(3) CivCC 770 (Allahabad)** and **Narendra Singh and ors. vs. Jai Singh and ors., 2016(2) DNJ 719 (Rajasthan)** contended that when two suits are pending in the same Court, the Court should have recorded its satisfaction that a joint trial is needed in all such suits.

[6]. The facts of the aforesaid cases cannot be universally applied in a given situation inasmuch as that Om Parkash being not party to earlier suit for permanent injunction may not be in a position to examine or cross-examine the witnesses produced by the plaintiff of the earlier suit. It is the satisfaction of the Court which is needed to explore the possibility of clubbing of two suits in order to decide the controversies therein in an effective manner. The relief involved in both the suits is not *para materia*, rather different in nature. Om Parkash has opposed the prayer. No such satisfaction can be recorded at this juncture to show that same evidence would suffice to decide both the suits.

[7]. In **Narendra Singh & Ors.**' case (supra) nature of litigation was something different as in all the suits cause of action was the same in respect of sale deeds executed by the defendants in favour of three transferees. Written statement

filed therein and issues framed by the Courts were identical in nature. No such course is possible in the present suit.

[8]. In my considered view, the trial Court has not committed any jurisdictional error while declining prayer for consolidation of suits. This revision petition is accordingly dismissed.

August 16, 2016
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No