

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 6261 of 2015

Date of Decision: 19.01.2016

Sanjeev Goyal

... Petitioner(s)

Versus

Balwinder Singh and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Sumeet Mahajan, Senior Advocate
with Mr. Hitesh Ghai, Advocate
for the petitioner(s).

Mr. Vivek Sharma, Advocate
for respondent No.1.

Mr. P.S.Punia, Advocate
for respondent No.2.

Shekher Dhawan, J.

Present petition is challenge to the order dated 3.7.2015, passed by learned Additional Civil Judge (Senior Division), Jagraon, whereby application filed by the present petitioner for consolidation of two civil suits titled "Balwinder Singh v. Ranjit Singh and Another" and "Sanjeev Goyal v. Balwinder Singh and Others", pending before learned Additional Civil Judge (Senior Division), Jagraon was dismissed.

Learned senior counsel for the petitioner submitted that

facts of the case are not disputed that there are two separate civil suits pending in the Court of learned Additional Civil Judge (Senior Division), Jagraon and subject matter of both the litigations is the same suit property. Parties in both the litigations are more or less same and same set of evidence is to be led in both the cases. For that purpose, application for consolidation of both the cases was filed but the same was dismissed vide order dated 3.7.2015.

While arguing further, learned counsel for the petitioner submitted that there being no specific provision under Code of Civil Procedure for consolidation of civil suits and the matter being covered as per the provisions of Section 151 CPC, Civil Court has inherent power to pass such an order to avoid multiplicity of litigation. On this point, reliance has been placed on judgment of Hon'ble the Supreme Court in ***Ramji Gupta and Another v. Gopi Krisha Agrawal (D) and Others 2013(2) RCR (Civil) 898***. On the same point, reliance was also placed on another judgment of Hon'ble the Apex court in ***M/s Chitivalasa Jute Mills v. M/s Jaypee Rewa Cement 2005(2) RCJ 185***.

Learned counsel for the respondents took the plea that the Court below has correctly passed the order that there are no grounds for consolidation of both the matters. More so, separate set of evidence is required in both the cases. Learned counsel for respondent No.2 also took the plea that even FIR was registered against Balwinder Singh for this litigation. Both the civil suits have already been transferred to single Court for convenience of the parties. But there was no ground for

consolidation of both the civil suits and as such the application was rightly dismissed and present petition be also dismissed.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that vide order dated 3.7.2015, application for consolidation of two civil suits titled "Balwinder Singh v. Ranjit Singh and Another" and "Sanjeev Goyal v. Balwinder Singh and Others" was dismissed. Legal proposition is not disputed that there is no specific provision under the Code of Civil Procedure for consolidation of civil suits. Rather the same can be done by the Civil Court only by exercising its inherent powers under Section 151 CPC and there is no dispute about such a legal proposition having been laid down by Hon'ble the Apex Court in ***Ramji Gupta's case*** and ***M/s Chitivalasa Jute Mills' case (supra)***.

But the real controversy is whether consolidation is possible in both the cases and the reply to this query is in negative. This is because of more than one reasons. In civil suit titled "Sanjeev Goyal v. Balwinder Singh and Others", initially suit for permanent injunction was filed and the basis for seeking injunction was agreement dated 12.2.2008 executed by Balwinder Singh son of Dalip Singh. The second civil suit was filed by Balwinder Singh against Ranjit Singh and Sanjeev Goyal as well for seeking specific performance of agreement of sale dated 27.12.2007. That way, the matter in controversy and evidence to be adduced in both the civil suits shall be entirely different. In both the agreements dated 27.12.2007 and 12.2.2008 attesting witnesses are different and even evidence to be adduced in both the litigations is

different. The Court below has rightly observed that same set of evidence would not be sufficient for decision of both the civil suits. Conflict of interest *inter se* the parties is there. Merely the fact that suit property in both the agreements is same, does not make it a case that consolidation of both the suits, based on two different agreements, requiring different mode of proof by the parties.

In view of above, the Court below has rightly taken a view that consolidation of both the civil suits shall not be the appropriate remedy. Rather both the civil suits are proceeded separately and for convenience of the parties, learned District Judge, Ludhiana has already transferred both the civil suits to single Court. Present petition is without any merit and the same stands dismissed.

(Shekher Dhawan)
Judge

January 19, 2016

"DK"