IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of decision : 25.02.2016

1. CR-7209-2015(O&M)

M/s J. S. Rice Mill, Paharipur and another

... Petitioners

Versus

M/s Panjola Trading Company, Panjola and others

... Respondents

2. CR-7221-2015(O&M)

Jagdev Singh

... Petitioner

Versus

Suresh Pal

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Munish Gupta, Advocate
for the petitioners.

Mr.Jai Bhagwan, Advocate
for the respondents.

<u>REKHA MITTAL. J.(ORAL)</u>

This order will dispose of the aforestated petitions as they have emerged out of common order dated 15.10.2015 (Annexure P7) passed by the trial Court, dismissing the application (Annexure P5) filed by the petitioners.

Counsel for the petitioners would contend that M/s Panjola

Trading Company, Panjola (in short 'the Company') and others have filed a suit for recovery of ₹10,86,880/- in respect of amount outstanding towards price of paddy purportedly sold by the plaintiffs to the petitioner mill. In para 22 of the plaint pertaining to cause of action, it is mentioned that cause of action accrued to the plaintiffs on various dates when the material was purchased, on 20.08.2004 when a cheque of ₹9,50,000/- was issued, on 26.08.2004 when intimation with regard to dishonour of cheque was received and finally on 07.10.2004 when the complaint was filed, and yesterday, when the defendant refused to admit claim of the plaintiffs. It is further argued that the second civil suit has been filed by Suresh Pal, proprietor of the company against Jagdev Singh, the proprietor of M/s J.S. Rice Mills (in short 'the Mill') and Jagdev Singh is one of the defendants in the suit filed by the company. In the suit filed by Saresh Pal titled Suresh Pal Vs. Jagdev Singh, in para 12 relating to cause of action, it has been mentioned that cause of action accrued on 20.08.2004 when the defendant issued a cheque in favour of plaintiffs' firm M/s Panjola Trading Company, Panjola for ₹9,50,000/- as cost of paddy purchased from plaintiffs firm by the defendant, the said cheque was dishonoured and also arose on 26.08.2003 when the agreement was executed. It is vehemently argued that as in the suit preferred by Suresh Pal alone, there is also reference to the cheque for ₹ 9,50,000/- issued on 20.08.2004 as well as its dishonour, both the suits are liable to be decided simultaneously if not by a common judgment. It is further submitted that both the suits are pending in the same Court in compliance with order of transfer of suit dated 09.09.2015 passed by the District Judge, Patiala. According to learned counsel, no prejudice would be caused to the respondents in case both the suits are decided simultaneously when otherwise it would facilitate the trial Court to have a cumulative view of the matter for just decision of the cases.

Counsel for the respondents, on the contrary, has submitted that both the suits are based upon different facts and documents and required to be decided independently on the basis of their respective merits. The arguments in the suit filed by the Company and others have already been advanced by the respondents but the petitioner, with a view to prolong the decision has filed the instant application that has been rightly dismissed by the learned trial Court. It is argued that mere fact that in the suit filed by Suresh Paul, in para 12, there is reference to issuance of cheque dated 20.08.2004 and dishonour thereof does not entitle the petitioners to claim any such relief that both the cases are required to be decided simultaneously.

I have heard counsel for the parties and perused the records.

A plain reading of the plaint (Annexure P1) of the suit filed by the company and others and (Annexure P2) of the suit filed by Suresh Pal leaves no manner of doubt that both the cases have been filed on independent facts and relate to an entirely different controversy. The suit filed by the company and others relates to recovery pertaining to supplies of paddy allegedly made by the plaintiffs to the defendant Mill in regard whereof the defendants have failed to make payment to the plaintiffs. The other suit filed by Suresh Pal against Jagdev Singh, is based upon an agreement dated 26.08.2003 on the basis whereof Suresh Pal plaintiff has staked his claim to be owner / partner to the extent of half share in the ownership and business of the Mill, with a further prayer for issuance of injunction by way of mandate to direct the defendant to execute a registered partnership deed to the extent of half share each between the parties and get the same registered with the Registrar of Firms, Punjab.

As subject matter of both the suits is altogether distinct and has nothing to do with the merits of each other, I do not find any merit in the contentions of the petitioners that the suits are required to be decided simultaneously much less by way of a common judgment. In this view of the matter, I do not find any error much less illegality in the impugned order as would call for intervention.

For the foregoing reasons, the petitions are dismissed leaving the parties to bear their own costs.

(REKHA MITTAL)
JUDGE

February 25, 2016.
Davinder Kumar