

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

Civil Revision No.1071 of 2017

Date of decision: May 05, 2017

Ishwar Chand

...Petitioner

Versus

Puneet Mittal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vivek Goyal, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition is directed against the order dated 18.01.2017, passed by the court below, whereby application filed by the petitioner for adjourning the case *sine die*, has been rejected.

It has been urged before the court that Regular Second Appeal i.e. RSA No.1512 of 2016 is pending before this court, in which controversy is the same. Thus, trial court ought to have allowed the application for adjourning the proceedings of the civil suit *sine die*. Reliance has been placed on judgment reported as ***Jaswant Singh and others vs. Surjant Singh, 1985 RLR 32.***

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

Plaintiffs filed a civil suit for declaration stating that certain sale deeds dated 18.5.2007, as described in the plaint, were null and void and not binding on the plaintiffs. They also sought an injunction to restrain defendants No.1, 2 & 3 from alienating the suit property. Defendants filed

their reply. They thereafter, moved an application under Order 7 Rule 11 CPC on the ground that a previous suit on the same issue had been decided by the court and the same would operate as *res judicata*. Trial court rejected the application vide order dated 03.09.2016. It, however, observed that issue of *res judicata* was a mixed question of law and fact and thus, kept it open. Thereafter, instant application was filed by the plaintiffs/petitioner praying that proceedings in the civil suit be adjourned *sine die*. This prayer has been rejected by the court. On due consideration of the matter, I am of the view that no interference in revisional jurisdiction is called for. It is not clear whether defendants posed a challenge to the order dated 3.9.2016, whereby their application under Order 7 Rule 11 CPC has been rejected. Prayer for adjourning the proceedings in the civil suit *sine die* is misconceived. It appears, petitioner is merely trying to delay the proceedings. Judgment in *Jaswant Singh's* case (supra) is not applicable to the facts and circumstances of the case. Petitioner is moving one application after another just to stall the proceedings of the civil suit. Petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

May 05, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No