

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 1948 of 2017

Date of decision : May 4, 2017

Hukam Chand

..... Appellant

Versus

Tipper Chand and others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- None for the appellant.

Mr. Vaneet Kumar, Advocate
for respondent Nos. 1 to 3.

DAYA CHAUDHARY, J (ORAL).

This petition has been filed under Article 227 of the Constitution of India for setting aside order dated 18.2.2017 (Annexure P-5) passed by learned District Judge, Barnala whereby the prayer of the petitioner for consolidation of Civil suit No. 2965 of 2013 titled as Madan Lal and another Vs. Hukam Chand and another pending in the court of Civil Judge (J.D) Barnala and Civil Suit No. 2943 of 2013 titled as Hukam Chand Vs. Madan Lal and others pending in the Court of learned Additional Civil Judge, (Senior Division) Barnala has been dismissed.

While issuing notice of motion on 17.3.2017 the following order was passed:-

“Learned counsel for the petitioner contends that the petitioner and respondents No.1 to 3 are brothers and subject matter in both the suits is directly and substantially the same and is based on family partition. The property in dispute is

situated in the same village the parties are also the same but still the impugned order has been passed.

Notice of motion to respondents No.1 to 3 only for 4.5.2017.

Meanwhile, proceedings before the trial Court in Civil Suit No. 2965 of 2013 (Madan Lal and another Vs. Hukam Chand and another) and Civil Suit No. 2943 of 2013 (Hukam Chand Vs. Madan Lal and others) shall remain stayed till the next date of hearing.”

In response to notice of motion, learned counsel appearing for respondent Nos. 1 to 3 submits that respondent Nos. 1 to 3 have no objection in case both the suits are consolidated. It has also not been disputed that petitioner as well as respondent Nos. 1 to 3 are brothers and subject matter of the suits is directly and substantially the same as the claim is based on family partition. The property in dispute is situated in the same village.

On perusal of averments made in the petition, Civil suit No. 2965 of 2013 is for declaration to the effect that plaintiffs are owners in possession in equal share of the suit land on the basis of family settlement dated 2.11.2004. The said suit is pending in the Court of Civil Judge, (Junior Division), Barnala. Another Civil Suit bearing No. 2943 of 2013 is for declaration to the effect that the suit land is jointly owned by petitioner and the respondents and the family partition dated 2.11.2004 is a forged and fabricated document. Issues have also been framed in both the suits.

On perusal of claim in both the suits, it appears that the subject matter of the suits is directly and substantially the same. Respondent Nos. 4 to 48 are only proforma respondents in Civil Suit No. 2943 of 2013 and in

of plaintiffs' is complete and the case is at the stage of defendants' evidence.

Since learned counsel for the respondents has specifically stated that respondent Nos. 1 to 3 have no objection, in case both the suits are consolidated. Accordingly, by considering the submissions made by learned counsel for the respondents that the respondents are having no objection in consolidation of both the suits as mentioned above, the revision petition is allowed and the impugned order dated 18.2.2017 is set aside. Both the suits i.e. Civil Suit No. 2965 of 2013 (Madan Lal and another Vs.Hukam Chand and another) and Civil Suit No. 2943 of 2013 (Hukam Chand Vs. Madan Lal and others) are ordered to be consolidated.

District & Sessions Judge, Barnala is directed to consolidate both the suits to one court and meanwhile proceedings shall remain stayed till the listing of the cases.

(DAYA CHAUDHARY)
JUDGE

May 4, 2017
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Whether speaking/reasoned	Yes
Whether Reportable	No