

CR No. 3341 of 2017 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 3341 of 2017 (O&M)
Date of decision: 3.7.2017**

Subhash Chand and others

...Petitioners

Versus

Mamta Rani and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Pankaj Jain, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition, at the hands of plaintiffs filed under Article 227 of the Constitution of India, is directed against the order dated 28.10.2016 (Annexure P-3) passed by the learned Additional District Judge, whereby appeal of the defendants-respondents was allowed, setting aside the order dated 9.10.2014 (Annexure P-1) passed by the learned trial court.

Heard learned counsel for the petitioners.

It is a matter of record that cause of action being pursued by the petitioners by way of present revision petition, is based on an interim order passed by the learned trial court during pendency of the civil suit. It was alleged by the petitioners that ad interim injunction granted by the learned trial court was violated by the defendants-respondents. It is also not in dispute that finally suit of the plaintiffs-petitioners came to be dismissed by the learned trial court and their first appeal has also been dismissed by the

CR No. 3341 of 2017 (O&M)

learned first appellate court. In spite of the judgments rendered by the learned courts below dismissing the suit of the petitioners, learned trial court passed the order dated 9.10.2014 (Annexure P-1) on an application moved by the plaintiffs-petitioners under Order 39 Rule 2-A of the Code of Civil Procedure ('CPC' for short).

Rightly feeling aggrieved against the said order passed by the learned trial court, defendants-alleged contemnors filed their appeal, which came to be allowed by the learned Additional District Judge, vide impugned order dated 28.10.2016 (Annexure P-3). In view of the abovesaid fact situation obtaining on record of the present case, principle of merger would be attracted. Interim order dated 29.4.2011 passed by the learned trial court would certainly merge in the judgment and decree dated 28.10.2016 passed by the learned court below.

Further, first appeal filed by the plaintiffs also came to be dismissed and their regular second appeal is pending before this Court. Under these peculiar facts and circumstances of the case, much water has flown and no useful purpose is going to be served in allowing the parties to pursue instant litigation, which is wholly unwarranted on the face of it. It is so said, because in terms of principle of merger, interim order passed by the learned trial court had already stood merged in the final decree, which has not been reversed by any higher court of competent jurisdiction. It is also true that multiplicity of litigation must be avoided and not to be encouraged. No prejudice of any kind, whatsoever, has been pointed out which might have been caused to the petitioners, by passing of the impugned order.

During the course of hearing, despite making his best efforts, learned counsel for the petitioners could not point out any patent illegality or

CR No. 3341 of 2017 (O&M)

3

perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned order has been found based on sound reasons and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

3.7.2017

AK Sharma

(RAMESHWAR SINGH MALIK)

JUDGE

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No