

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-4279-2017

Date of decision: 05.07.2017

Ramalo Devi

..... Petitioner

Versus

Shri Ram (since deceased) through LRs and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Arun Jain, Senior Advocate with
Mr. Amit Jain, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

1. Challenge has been laid in the instant revision under Article 227 of the Constitution of India, is to the order dated 30.05.2017, passed by the trial Court, dismissing the application of the petitioner for consolidation of two suits titled as (i) Shree Ram through his LRs Vs. Ajaib Singh etc. and (ii) Ramalo Devi Vs. Ajaib Singh etc., was dismissed.

2. Learned senior counsel for the petitioner contends that the main thing which weighed in the mind of the trial Court was that the earlier suit by Shree Ram (since deceased) was filed in year 2007 and the petitioner had filed her suit in the year 2013, but the same has no material bearing on the factual aspect of both the cases, because it is a long drawn litigation between the parties. Earlier, the petitioner had moved an application under Order 1 Rule 10 CPC for impleading her as a party in the suit filed by respondent No. 1-Shree Ram (since deceased) during his life time.

However, the same was dismissed by the trial Court vide order dated 08.08.2013, but this Court vide order dated 05.05.2015 (Annexure P-3) passed in CR-5387-2013, allowed the petitioner to be impleaded as a defendant. Consequently, the plaint was amended and the petitioner was impleaded as defendant No. 7 in the earlier suit. Thereafter, the issues were reframed on 08.08.2016 and now after conclusion of evidence by respondent No. 1-plaintiff, the case is fixed for the evidence of the defendants including the petitioner.

3. I have heard learned counsel for the petitioner and perused the paper-book.

4. Perusal of the impugned order shows that the learned trial Court has itself observed in the impugned order that “the subject matter involved in both the suits is common and identical in nature and the parties are to lead the same oral and documentary evidence with regard to the validity of the documents. The property involved in both the suit is almost the same”. In both the cases, challenge has been made to the General Attorney, allegedly executed in favour of Ajaib Singh and Gurmit Singh-respondents No. 3 and 4, respectively, on 03.10.2007. Similarly, gift deed dated 19.10.2007, executed in favour of respondent No. 5-Smt. Poonam wife of Gurmit Singh-respondent No. 4 and respondent No. 6-Sunita wife of respondent No. 3-Ajaib Singh, is also under challenge in both the cases. Subsequently, sale deed executed on 19.10.2007 is also under challenge in both the suits. Parties to both the suits are same, except one Anil Kumar Mittal, who was impleaded as a party in case titled as Ramalo Devi Vs. Ajaib Singh etc., being Deed-writer.

5. The above observations of the learned trial Court in the

impugned order dated 30.05.2017, makes it clear that consolidation of both the suits is necessary to save the parties from multiplicity of proceedings, delay, unnecessary expenses and conflicting judgments, more particularly, when the subject matter, property in dispute and parties are the same. It is pertinent to mention here that the earlier suit though was filed in the year 2007, but the petitioner was permitted to be impleaded as defendant No. 7 by this Court vide order dated 05.05.2015 (Annexure P-3). Hence, the earlier suit has also not been reached at its final stage, rather is at the stage of defendants' evidence and, thus, there is no justifiable reason for not consolidating both the suits. It is also evident from the impugned order that both the suits are pending before the trial Court itself.

6. In view of discussion above, the impugned order dated 30.05.2017, is hereby set aside and the learned trial Court is hereby directed to try both the suits together after consolidating them.

7. The instant revision stands disposed of, accordingly.

July 05, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No