

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.5328 of 2016
Date of Decision: 12.10.2017

Smt. Sarabjit Kaur and others**Petitioners**
Vs
Smt. Kulbir Kaur and others ...**Respondents**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sandeep S. Majithia, Advocate
for the petitioners.

Mr. B.S. Sidhu, Advocate
for the respondents.

RAJ MOHAN SINGH, J.

[1]. Petitioners have assailed the order dated 02.07.2016 passed by the Civil Judge (Jr. Divn.) Amritsar whereby consolidation of two suits was declined.

[2]. Brief facts are that a civil suit titled '*Smt. Sarabjit Kaur and others vs. Smt. Kulbir Kaur and others*' for declaration to the effect that the plaintiffs are owners in possession of the properties as detailed in letter 'a' and 'b' with consequential relief of permanent injunction and alternate relief of possession is pending in the competent Court at Amritsar. The second suit titled '*Kulbir Kaur vs. Smt. Sarabjit Kaur and others*' for partition by metes and bounds of property Kothi No.84 is also pending before the competent Court at Amritsar.

[3]. Learned counsel for the petitioners submitted that the issue is with regard to title of the properties. Plaintiffs claimed the property on the basis of family settlement, whereas respondents have claimed the properties on the basis of natural succession.

[4]. Learned counsel for the respondents has opposed the prayer on the ground that the petitioners have concealed the factum of order dated 21.04.2016 passed by the District Judge, Amritsar in the Transfer Application No.57/2016 which was filed by the petitioners for transfer of the case to the same Court.

[5]. I have heard learned counsel for the parties.

[6]. In the first suit titled '*Smt. Sarabjit Kaur and others vs. Smt. Kulbir Kaur and others*', Smt. Sarabjit Kaur, S. Parminder Singh and S. Harinder Pal Singh are the plaintiffs and Smt. Kulbir Kaur, Smt. Inderbir Kaur, are defendants No.1 and 2 and Bakhtawar Singh and Jorawar Singh are defendants No.3 and 4. The suit is for declaration in respect of property shown by letter 'a' which is 8 *Kanals* of agricultural land and property shown by letter 'b' is House No.84. Property shown by letter 'b' is in dispute in second suit titled '*Kulbir Kaur vs. Smt. Sarabjit Kaur and others*' in which Kulbir Kaur is the only plaintiff, whereas Smt. Sarbjit Kaur, Parminder Singh, Harinder Pal

Singh and Inderbir Kaur are the defendants. The application for consolidation of the suits was filed on 04.05.2016.

[7]. The factum of filing the application and the order dated 21.04.2016 passed in TA No.57/2016 by the District Judge, Amritsar have not been pleaded, nor the same was disclosed at the time of preliminary hearing. The said order reads as under:-

“Present: Shri Ramesh Choudhary, Adv. counsel for the appellant.

Comments received from the courts concerned. Shri Lalit Joshi, Adv. has appeared on behalf of respondent No.2, whereas Shri MS Chhina, Adv, has appeared on behalf of respondents No.1, 3 and 4 and they have suffered separate statements, raising no objection, if both the suits as mentioned in the transfer application are transferred to either court for disposal in accordance with law by allowing the transfer application. In view of their such statements, civil suit titled as Sarabjit Kaur and others vs. Kulbir Kaur and others, pending in the Court of Ms. Shivangi Sangar, Civil Judge (Junior Division), Amritsar, is hereby withdrawn from that court and is transferred to the court of Ms. Gurpreet Kaur, Civil Judge (Junior Division), Amritsar, for disposal in accordance with law along with connected case pending in her court. The parties are directed to appear before the transferee court on 3.5.2016 at 9.30 a.m. sharp. Copy of this order be sent to the courts concerned for strict compliance. Papers be consigned to the record room.

*Announced in open court.
21.4.2016*

*(Gurbir Singh)
District Judge, Amritsar”*

[8]. Since both the suits have already been brought before the same Court and will be decided by the same Court simultaneously, therefore, in my considered opinion, there is no necessity of consolidating the suits. The nature of the suit in both the cases is not overlapping inasmuch as that in the first suit the suit is for declaration with consequential relief of permanent injunction and alternative relief of possession in respect of two properties i.e. shown by letters 'a' and 'b'. Whereas in the second suit, the property involved is only Kothi No.84 which is the property under heading 'b' in the first suit. The parties are also different as in the first suit Bakhtawar Singh and Jorawar Singh are the additional parties, who are not involved in the second suit for partition by metes and bounds.

[9]. In view of above, particularly in view of order dated 21.04.2016 passed by the District Judge, Amritsar, there is no justification for interfering in the impugned order dated 02.07.2016 passed by the Civil Judge (Jr. Divn.) Amritsar. The District Judge, Amritsar has already transferred the suits before the same Court for their disposal in accordance with law. This revision petition is accordingly dismissed.

October 12, 2017

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No