

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6942 of 2016

Date of decision:- February 28, 2017

KEWAL SINGH

....PETITIONER..

VERSUS

GURNAM SINGH AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Naresh Kaushik, Advocate,
for the petitioner.

JASPAL SINGH, J.

Through instant civil revision petition preferred under Article 227 of the Constitution of India, the petitioner has sought setting aside of order dated 19.09.2016 (Annexure P-1) passed by Civil Judge (Junior Division), Amritsar, in case No.90/15/3167/98218 of 2013, titled as “***Kewal Singh vs. Gurnam Singh and others***” whereby application moved under Section 151 CPC for consolidating the civil suits titled as “***Kewal Singh vs. Gurnam Singh***” and “***Balwant Singh vs. Kewal Singh***” has been dismissed.

2. While assailing the impugned order, it has been contended by learned counsel for the petitioner that the ld. Trial court has committed a grave error while dismissing an application for consolidation of suits. In fact, petitioner-plaintiff earlier filed a civil suit for specific performance with consequential relief of permanent injunction titled as “***Kewal Singh vs. Gurnam Singh and others***” on the basis of agreement to sell dated

21.05.2001, in respect of plot measuring 4 marlas situated within the lal lakeer of village Akalgarh Dhupian, Tehsil and District Amritsar. With regard to the same property, Balwant Singh has also filed a suit titled as ***“Balwant Singh vs. Kewal Singh and others”***, which is pending in the Court of Ms. Sumakhi Civil Judge (Junior Division), Amritsar. In the said suit, Balwant Singh has relied upon sale deed No. 6234 dated 19.02.2013. He has also raised dispute in respect of the agreement of sale dated 21.05.2001 pertaining to the suit property. Since, the property in dispute in both the civil suit is same and parties are also the same and the relief claimed are also identical, therefore, both the civil suits are required to be consolidated in order to avoid the passing of conflicting judgments. But ld. trial court has declined the consolidation of both the suits without taking into consideration the aforesaid aspects. The non-consolidation of both the suits would greatly prejudice the rights of the petitioner-plaintiff.

3. This Court has given a thoughtful consideration to the aforesaid submissions made by learned counsel for the petitioner but find the same to be of no legal and factual weight.

4. A close scrutiny of complaints of both the suits as well as other documents available on file makes it crystal clear that so far as suit No.90/15/3167/98218 of 2013, captioned as ***“Kewal Singh v. Gurnam Singh and others”*** is concerned, the said suit is for specific performance of the agreement of sale dated 21.05.2001 in respect of disputed property measuring 4 marlas whereas another suit titled as ***“Balwant Singh v. Kewal Singh and others”*** is a simple suit for injunction based upon sale deed No.16234 dated 19.02.2013. In both the suits, parties are also not the same,

as first suit has been filed by Kewal Singh against Gurnam Singh and Satnam Singh whereas another suit filed by Balwant Singh is not only against Kewal Singh but also against Paramjit Kaur, Mangal Singh and Mukhtar Singh. Similarly, cause of action in both the suits is also substantially different. The evidence in both the suits also cannot be said to be substantially common. Thus, there is no question of consolidation of both the suits. Thus, this Court is of the considered view that the consolidation of both the suits has been rightly declined by trial court.

5. As such, the instant petition being devoid of merit, is dismissed. However, while parting this order, ld. trial court is directed to dispose of both the suits simultaneously to avoid the possibility of inconsistent findings and decisions.

February 28, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No