

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 7326 of 2017

Date of Decision: 26.10.2017

Ranjit Singh

.....Petitioner

Versus

Ajit Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. S.P.Soi, Advocate
for the petitioner.

ANITA CHAUDHRY, J

The petitioner has assailed the order dated 14.9.2017 (Annexure P-1) whereby his application seeking consolidation and clubbing of two cases, was dismissed.

The pleadings of both the cases are available on record. The plaintiff had filed a suit (Annexure P-2) seeking declaration that 12 cheques had been forcefully snatched by the defendants and he was forced to sign them and when he was in police custody threat was extended by defendants No. 6 and 7. The plaintiff was also praying for a decree for injunction restraining the defendants from using or encashing those cheques and was seeking return of the cheques. In the second suit (Annexure P-9), the plaintiff was seeking damages of Rs. 8,00,000/- from the defendants for harassing, humiliation, wrongful confinement and mental torture at the hands of the defendants for calling to him to the police station, for insult, wrongful arrest, physical torture and snatching the cheques.

The plaintiff claimed that the parties in both the suit were same

and he had to lead the same evidence and both the suits could not be filed

on one date since he did not have the Court fee and, therefore, it was filed a month later and since the evidence could be the same, both the suits could be decided by a common judgment.

The defendants opposed the prayer and pleaded that there was different causes of action and nature of suits was different and separate evidence will have to be led and the cases could not be consolidated.

The trial Court while dismissing the application has observed as under:-

“5. Perusal of the file reveals that plaintiff Ranjit Singh has filed the present suit for declaration with the averments that 12 cheques forcibly got signed from plaintiff by defendants are null and void without legal liability and the same are forged and fabricated document and suit for permanent injunction and mandatory injunction to return the cheques, whereas the other suit is for recovery of Rs. 08 lacs, meaning thereby the relief and cause of action in both cases are quite different and evidence which is to be led on account of different reliefs has to be different. The arguments advanced by the counsel for applicant that parties are same in both the suits is not sole ground for clubbing both the suits. The nature of both the suits is different as the present suit is for declaration, mandatory injunction and permanent injunction, whereas the other suit is for the relief of recovery and both the suits are based on different cause of actions and cannot be tried together.

*Reliance in this regard is placed on **Bata India Ltd. Versus Anupama Rubber Pvt. Ltd. and another, Vol. CVIII-(1994-3)***

The Punjab Law Reporter; 2007 (P&H), wherein it is laid down that where most of the questions of law and facts are different and there similarity only in regard to part of the matter and most of the evidence to held would be different, it will not be in the interest of justice to consolidate the suits.

6. *Relying upon the ratio of law discussed in foregoing paras, I am of the considered view that the nature of the civil suit titled Ranjit Singh Vs. Ajit Singh bearing No. 180/2015 is declaratory in nature and other civil suit titled as Ranjit Singh versus Ajit Singh bearing No. 189/2015 is for the recovery, are totally of different nature and cannot be clubbed just by way of application. The filing of present application is nothing but a delaying tactics just to delay the proceedings and the same is dismissed being devoid of merits.”*

I have heard the counsel for the petitioner at great length and I find no merit in the petition.

In both the suits claim was different and separate issues will have to be framed and evidence with respect to the plea raised in the suits will have to be led. In the suit in which the plaintiff is claiming damages, the evidence would be entirely different. Both the suits are based on different cause of action and I find no infirmity in the order passed by the Court below.

The petition is dismissed in limine.

(ANITA CHAUDHRY)
JUDGE

October 26, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No