

In the High Court of Punjab and Haryana at Chandigarh

CR- 7962 of 2016(O&M)
Date of Decision: 2.12.2017

Kewal Krishan and others

---Petitioners

versus

Babu Ram Narula and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Hitesh Ghai, Advocate
for the petitioners

Rekha Mittal, J.

Challenge in the present petition has been directed against order dated 17.9.2016 (Annexure P-9) passed by the trial court whereby application for consolidation of two suits titled “Kewal Krishan and others vs. Babu Ram Narula and another” and “Ajay Kumar and another vs. Kewal Krishan and another”, has been dismissed.

Counsel for the petitioners has submitted that the petitioners have filed the suit for grant of perpetual injunction restraining the defendants from interfering, demolishing any portion of suit property bearing No. 213 situated at village Phullanwal, Moti Bagh Colony on the premise that the petitioners are the tenants in the premises in question at a monthly rent of Rs. 12,000/- per month though initially the rent was Rs. 7,000/- per month. Ajay Kumar and his mother Satya Wati have filed suit for mandatory injunction directing the defendants to hand over vacant

possession of part of property measuring 1657 square yards bearing House No. 213, village Phullanwal, Tehsil and District Ludhiana, detailed in head note of the plaint on the premise that defendants are licensees and license stands revoked orally on 28.2.2015 and through notice dated 5.5.23015. It is argued with vehemence that as the property, subject matter of both the suits is the same and identical questions of law and fact are involved for adjudication with regard to the capacity in which the petitioners are in possession of the suit property i.e. as tenants or licensees, consolidation of the two suits and recording of evidence in one of the cases would save time, energy and effort of all the stake holders particularly that of the Court as the Court would be required to record evidence in one of the cases for deciding both the suits. It is further argued that no prejudice shall be caused to the respondents in case prayer of the petitioners is allowed.

I have heard counsel for the petitioners and perused the paper book particularly the order impugned.

Counsel for the petitioners, in response to a query, has fairly informed that both the suits are pending in the same court and being dealt with simultaneously. The trial court in operative para 4 of the impugned order has noticed that parties in both the suits are not exactly the same, different reliefs have been claimed in both the suits, consolidation of both the suits will add complexity to the matter in dispute, therefore, both the suits cannot be consolidated.

Perusal of plaints of both the suits (Annexure P-1 and P-4) would reveal that the suit for injunction has been filed by the petitioners against Babu Ram Narula and Ajay Kumar Narula. On the other hand, suit for mandatory injunction has been filed by Ajay Kumar Narula and Satya

Wati mother of Ajay Kumar Narula and wife of Babu Ram Narula. As parties in both the suits are not identical, I do not find any reason to interfere in the order impugned in exercise of power of superintendence.

For the foregoing reasons, the petition fails and is accordingly dismissed.

(Rekha Mittal)
Judge

2.12.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No