

Civil Revision No.8367 of 2016 (O&M)

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

Sr. No.113

**Civil Revision No.8367 of 2016 (O&M)
DECIDED ON: February 20, 2017**

RAKESH KUMAR AND ANOTHER

..PETITIONERS

VERSUS

TIME & TIDE TECHNOLOGIES PVT. LTD. AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Inderjit Singh Brar, Advocate,
for the petitioners.

JASPAL SINGH, J.

CM No.3281-CII of 2017

Application is allowed as prayed for.

Copy of eviction petition dated 22.05.2013 (Annexure A-1) is
taken on record subject to all just exceptions and be tagged at appropriate
place.

CR No.8367 of 2016

Challenge in this revision petition is to the order dated
November 15, 2016 (Annexure P-3) passed by the learned Additional Civil

Civil Revision No.8367 of 2016 (O&M)

Judge (Sr. Divn.) Bathinda, whereby an application moved by the petitioners/defendants No.1 & 5 under Section 10 read with Section 151 of the Code of Civil Procedure for staying the further proceedings of the suit titled as "*Time & Tide Technologies Pvt. Ltd. Vs. Rakesh Kumar & Ors.*" till the final decision of the eviction application filed by them captioned as "Sadhu Ram & another Vs. Mohit Sharma" has been dismissed.

2. The contention of the learned counsel for the petitioners is that the petitioners have moved an application under Section 13 of East Punjab Urban Rent Restriction Act (for short 'Act') for ejectment of respondent-Mohit Sharma from the ground floor portion of the house measuring 410 Sq. Yds. bearing M.C. No.21393, situated near Street No.3, Power House Road, Bathinda and for delivery of the vacant possession thereof, which is pending disposal before the Rent Controller, Bathinda. Subsequent thereto, the respondent No.1 has filed a suit for specific performance on the basis of an alleged agreement to sell dated September 1, 2007, executed by Smt. Shanti Devi in respect of property measuring 205 Sq. Yds. mentioned in the head note of the plaint. The subject matter of the agreement to sell dated September 01, 2007 regarding which the suit for specific performance has been filed is also the subject matter of the eviction petition and in order to avoid the conflicting judgments, the proceedings in the subsequently instituted suit i.e. for specific performance deserves to be stayed till the final disposal of the eviction petition. The suit for specific performance is also nothing but is a counter-blast to the eviction petition. The matter involved in both the cases is directly and substantially is the same. The learned trial court while passing the impugned order dated November 15, 2016 has

ignored this aspect which has resulted into great prejudice to the petitioner.

As such, the impugned order being not sustainable in the eyes of law deserves to be set aside by way of acceptance of instant petition.

3. This court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioners, but does not find the same to be of any legal weight.

4. Before proceedings to decide the matter in controversy on merits, it would be desirable to reproduce Section 10 CPC which reads as under:-

“No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in (India) having jurisdiction to grant the relief claimed, or in any Court beyond the limits of (India) established or continued by the Central Government and having like jurisdiction, or before (the Supreme Court).”

5. A glance at the aforesaid provision makes it crystal clear that the proceedings under this provision are required to be stayed in a subsequently instituted suit where the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties or between the parties under whom they or any of them are litigating and where such suit is pending in the same or any other Court having jurisdiction to grant the relief claimed. If, in the light of aforesaid provision, the instant case is viewed none of the conditions mentioned in Section 10 CPC are attracted. Firstly, the subject matter is not the same in

Civil Revision No.8367 of 2016 (O&M)

its entirety; secondly the reliefs claimed are different and parties as well as cause of action are also different and even the jurisdiction of the court is also different in both the suits. Thus, this court is of the considered view that an application for staying the proceedings in the suit for specific performance has rightly been declined by the learned trial court vide impugned order dated November 15, 2016. Rather, this court is of the considered view that order dated November 15, 2016 is absolutely in consonance with the legal proposition applicable to the facts and circumstances of the case in hand and it calls for no interference by this court.

6. As an up shot of the aforesaid discussion, instant petition being devoid of any merit is dismissed.

7. No order as to costs.

February 20, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**