

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.8585 of 2015 (O&M)

Date of decision:- January 16, 2017

SANJAY KUMAR

...PETITIONER..

VS.

RAJESHWAR AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. H.S. Hooda, Sr. Advocate with
Mr. C.S. Singh, Advocate,
for the petitioner.

Mr. Sumit Sangwan, Advocate,
for respondents No. 1 to 4.

JASPAL SINGH, J.

Challenge in this civil revision petition preferred under Article 227 of the Constitution of India is to the order dated 02.05.2015 passed by Civil Judge (Junior Division) Charkhi Dadri, whereby an application moved by respondent under Section 10 of the Code of Civil Procedure has been allowed.

2. Undisputably, Mrs. Parmila, Swati and others, wife and children of Sanjay Kumar filed a suit captioned as ***“Swati vs. Rajeshwar and others”*** bearing 390 CMA of 2015 to the following effect:-

“Suit for declaration to the effect that the plaintiffs and defendant No.5 are the joint owners in possession of the agricultural land measuring 33 kanals 9 marlas comprised in Khewat No.1 min Khatoni No.1 min Khasra

Nos.56/6/2 (0-17), 8/2(3-12), 57/2/2(6-10), 9(8-0), 10/1 (6-10), 22 (8-0), katas 6 and abadi land measuring 2 kanals 5 ½ marlas which is half share of total land measuring 4 kanals 11 marlas comprised in Khewat No. 3 and 4 Khatuni Nos.3 and 4 Khasra Nos. 88 (2-0), 143 (2-11), situated in the revenue estate of village Ghikara, tehsil Ch. Dadri, District Bhiwani, vide jamabandi for the year 2011-12 read with mutation No.1097 dated 06.05.2013 being HUF and ancestral property and the sale deed bearing No. 5265 dated 30.01.2014 in respect of the land measuring 33 kanals 9 marlas in favour of defendant No.1 and subsequent sale deed bearing No. 133 dated 17.04.2014 executed by defendant No.1 and in favour of defendant No.2 Ompati and release deed bearing No. 5266, dated 30.01.2014 in favour of defendant No.3 Amit in respect of the land measuring 2 kanals 5 ½ marlas are absolutely wrong, illegal, null and void, without consideration and without jurisdiction and consequently the mutation on the basis of the ibid registered deeds are also wrong, illegal, null and void and have no binding effect upon the plaintiffs; with a consequential relief of permanent injunction restraining the defendants from interfering into the joint peaceful possession of the plaintiffs and from alienating the suit land by way of sale, mortgage, gift or in any other manner, on the basis of the evidences both oral as well as documentary.”

3. Subsequent thereto, Sanjay Kumar filed other two suits bearing No. 8 of 2015 titled as **“Sanjay Kumar vs. Rajeshwar and another”** and another suit bearing No.9 of 2015 titled as **“Sanjay Kumar vs. Khazani”** seeking declaration that he is owner in possession of agricultural land measuring 33 Kanals 9 marlas comprising Khewat No.1 min Khatoni No.1

as per jamabandi for the year 2011-12 as well as for correction of mutation No. 1097 in the revenue record challenging the registered sale deed No. 5265, dated 30.01.2014 executed by defendant No. 2 in favour of defendant No.1 and further that the said sale deed is without consideration and result of fraud and misstatement with bad intention. In addition to it, another sale deed No. 133, dated 17.04.2014 executed by defendant No.1 in favour of defendant No.3 and subsequent sale deed No. 4731 dated 09.12.2014 executed in favour of defendant No.4 have already been challenged. The matter did not end here, Sanjay Kumar filed another Civil Suit No. 9 of 2015 titled as “*Sanjay Kumar vs. Khazani*”. In all the three suits, the subject matter is the same and there is a challenge to the various sale deeds as well as release deed referred to above.

4. The contention of learned counsel for the petitioner is that the relief sought in all the three suits is different. The parties are also different. Not only this, the suit property is also different, which can be adjudicated upon judiciously by disposing of the same separately. As such, there is no applicability of Section 10 CPC to the facts and circumstances of the civil suits in question.

5. This Court has scrutinized the impugned order dated 02.05.2015 passed by Civil Judge (Junior Division) Charkhi Dadri and find the same to be absolutely in consonance with the provisions contained in Section 10 CPC as in both the subsequent suits similar relief has been claimed and the properties and parties are almost the same. The ld. trial court has rightly concluded that in case the application under Section 10 CPC is not allowed the possibility of rendering of conflicting decisions of

the court(s) of the concurrent jurisdiction.

6. Moreover, with staying the proceeding of the later suit, the petitioner is not going to suffer any ir-repairable loss. Similarly, no prejudice is also going to be caused to him.

7. In the light of what has been discussed above, the instant petition stands dismissed.

January 16, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No