

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.8775 of 2016
Date of decision: January 13, 2017

Aadish Aggarwal

...Petitioner

Versus

Brijeshwar Sarup and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rajiv Kataria, Advocate for the petitioner.
Rajan Gupta, J.

Present revision petition has been preferred by the petitioner against the order dated 21.11.2016, passed by the trial court, whereby application filed by the petitioner/plaintiff for consolidation of the two civil suits, has been dismissed.

Learned counsel for the petitioner has assailed the order. He has submitted that impugned order is unsustainable. According to him, suit property in both the suits was purchased in the name of defendant No.1 from the Joint Family Funds and both the suits are with regard to the same property. He has further submitted that common questions of law and fact are involved in both the cases and thus, both the suits require to be consolidated.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, petitioner along with respondent No.9 filed a suit

seeking ownership of 1/6th share each in the land measuring 25 Kanals 10 Marlas, situated in the revenue estate of Safidon, District Jind and that defendants are in joint possession of the said land being Joint Hindu family coparcenary property. Consequential relief of permanent injunction has also been sought for restraining defendants from interfering into possession of the plaintiffs over the suit property. During pendency of the suit, petitioner/plaintiffs filed instant application for consolidation of the instant suit with Civil Suit No.364 of 2011 titled Brijeshwar Swarup Vs. Anil Aggarwal & others. Prayer for consolidation of two suits has been rejected by the court below by observing that civil suit No.364 of 2011 is at the stage of final disposal, whereas in the instant suit trial has not yet commenced.

I find no infirmity with the order passed by the court below. Admittedly, the suit for injunction was instituted by the respondent way back in the year 2011. Said suit had made considerable headway as plaintiff's evidence therein has been concluded. Petitioner filed instant suit in the year 2015 seeking a declaration that suit property was Hindu undivided coparcenary property. In this case, plaintiffs' evidence is yet to commence. In my considered view, no purpose would be served by consolidation of both the suits. It is inexplicable how the injunction suit would have any bearing on the instant suit, in which petitioner has sought certain substantive reliefs for declaration of the suit property as Hindu undivided coparcenary property. Counsel for the petitioner has not been able to convince this court that trials of two suits need to be consolidated. In view of nature of litigation involved, it would be appropriate that both

the suits are tried separately. Thus, no interference in revisional jurisdiction of this court is called for.

Dismissed.

(RAJAN GUPTA)
JUDGE

January 13, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No