

Civil Revision No.873 of 2017
Date of Decision: *February 07, 2017*

Bagga Singh

..... PETITIONER

VERSUS

Rakesh Kumar & others

..... RESPONDENTS

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. S.S. Gurna, Advocate, for the petitioner.

. . .

Jaspal Singh, J

1. Through the instant revision petition, preferred under Article 227 of the Constitution of India, petitioner has sought setting aside of order January 24, 2017 passed by the Civil Judge (Junior Division), Patiala, whereby an application filed by the petitioner for consolidation of suit No.7175 of 2007 captioned as 'Bagga Singh vs. Rakesh Kumar & others' and Civil Suit No.5896 of 2008, titled 'Rakesh Kumar & others vs. Bagga Singh' has been dismissed.

2. The contention of learned counsel for the petitioner is that subject matter of both the suits is same and the suit property involved in both the suits is 11 bigha 10 biswa comprised in Khewat No. 25, Khatauni No.26, Khasra No.8(8-1), 9 min (2-0), 10 min (1-19) situated

in village Noor Kherian, Tehsil & District Patiala. The parties are also the same. Petitioner and respondent Nos.1 to 3 are common in both the suits. However, as far as respondent Nos.4 to 21 are concerned, they are subsequent vendees after respondent Nos.1 to 3. They have been impleaded as defendant Nos.4 to 21 in the suit filed by petitioner titled as 'Bagga Singh vs. Rakesh Kumar & others'. Thus, to avoid conflicting judgments, the consolidation of suits is essential which would render proper and effective adjudication of the matter in controversy between the parties.

3. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but does not find any legal as well as factual force in the same for reasons mentioned hereinafter.

4. A glance at the copy of plaint of suit captioned as 'Bagga Singh vs. Rakesh Kumar & others' shows that the said suit was instituted in the month of July 2007. There are 21 defendants and as many as 12 sale deeds have been challenged. The subject matter of the land is 4 bigha 18 ½ biswa out of the suit land, whereas, the other suit captioned as 'Rakesh Kumar & others vs. Bagga Singh' was filed in the month of August 2008. Subsequently, plaint was amended in the month of January 2014, that too, against Bagga Singh only. The previously instituted suit titled 'Bagga Singh vs. Rakesh Kumar & others' is a suit for possession as well as the cancellation of sale deeds, whereas suit captioned as 'Rakesh Kumar & others vs. Bagga Singh' is a suit for mandatory injunction directing the defendants to complete the total

land measuring 11 bigha 10 biswa, the area of which has been referred to above in paragraph 1 of this judgment. So, neither the subject matter nor parties are similar. The reliefs claimed in both the suits are also different. Thus, this Court is of the considered view that consolidation of the suits has rightly been declined by learned trial court, rather, the filing of second suit as well as application for consolidation of the suits is a delaying tactics, especially in the circumstances that suit captioned as 'Bagga Singh vs. Rakesh Kumar & others, is at its penultimate stage whereas the other suit is at its initial stage.

5. In the light of what has been discussed above, the instant petition being devoid of any merit is dismissed.

February 07, 2017

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**(Jaspal Singh)
Judge**

Whether Speaking/Non-speaking

: Yes/No

Whether Reportable

: Yes/No