

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.937 of 2017

Date of Decision: 03.10.2017

Kartar Singh

.....petitioner

Vs.

Lakhwinder Singh and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Sanjay Verma, Advocate, for the petitioner.

RITU BAHRI, J. (ORAL)

Petitioner has come up in revision against the order dated 09.11.2016 (Annexure P-5) passed by learned Civil Judge (Sr.Divn.) Kurukshetra, vide which application under Section 10 read with Order 7 Rule 11 CPC filed by the respondent was allowed and present suit was ordered to be stayed till the final decision of the civil suit.

The plaintiff-Kartar Singh has filed a suit titled **Kartar Singh Vs. Jaswinder Singh and others suit No.1563 of 2015**, which was pending before the Court of Civil Judge (Sr.Divn.) Kurukshetra. This suit was filed for declaration with consequential relief of permanent injunction restraining the defendants No.1 and 2 from alienating, selling, transferring, mortgaging the suit land to any other stranger, forcibly and illegally or in any manner without any cause of action as the same had been filed by the plaintiff. The defendants Jaswinder Singh and Lakhwinder Singh were contesting on behalf of defendants and a declaration that plaintiff and perform respondents No.3 to 9 were joint owner in possession. In the second suit, in which the present application has been filed, the plaintiff did not mention the rectangle number of the suit property. But from the plaint, it was clear that the suit property was situated at Village Bagthala, District Kurukshetra. The trial Court while passing the impugned order, it was stated that suit property described in para No.1 (i) and 1(ii) of the plaint was the same as detailed in

para No.1 of the suit pending before the learned Civil Judge (Jr.Divn.), Kurukshetra. The suit property described in para (iii) of the present suit does not belong to any of the party. Jamabandi for the year 2014-15 reveals that some other persons were owners in possession of that property. Thus the suit property involved in both cases were same. Moreover, it was contended by plaintiff Kartar Singh that suit land had never been partitioned, now there was any family settlement in June, 1980. In the present suit for permanent injunction also, the oral mutual exchange between the same parties were alleged. In the suit filed by the plaintiff-Kartar Singh, the plaintiff was stating that he be declared owner on the basis of mutual exchange and defendants be restrained from interfering in the possession of the plaintiff. Therefore, the present suit falls clearly within the ambit and mandatory provisions of Section 10 of CPC. The present suit was ordered to be stayed till the final decision of the civil suit titled “Kartar Singh Vs. Jaswinder Singh” bearing No.563 of 2015 pending before the learned Civil Judge (Jr.Divn.), Kurukshetra. With this observation, the application under Section 10 of CPC was rightly allowed.

Learned counsel for the petitioner has submitted that nature of property was different. However he was unable to answer whether the suit property as described in para III in the present suit did not belong to the parties. Hence, the finding recorded by the Court below with respect to nature of property involved in both case are same and the present suit was ordered to be stayed till the final decision of the civil suit.

So in the light of the discussion, the orders of the Court below does not reflect any material irregularity or perversity which warrant interference. Hence the present revision stands dismissed.

(RITU BAHRI)
JUDGE

03.10.2017
anil

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>