

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1553 of 2018 (O/M)
Date of decision : 8.3.2018

Neel Chand Sharma alias Neel Kanth

..... Petitioner

Versus

Tara Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. H.S. Saini, Advocate, for petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

Heard.

Petitioner has impugned order dated 29.1.2018 (Annexure-P-7), passed by the learned Civil Judge (Junior Division), Dera Bassi (wrongly mentioned as Civil Judge (Senior Division), Dera Bassi), vide which an application filed by present petitioner-defendant under Order VII Rule 11 CPC, 1908, was dismissed.

The learned counsel for petitioner contends that previously present plaintiff alongwith his father filed a civil suit for declaration and permanent injunction regarding some land on 31.3.1989. The same was dismissed by the learned Sub Judge IInd Class, Rajpura, vide judgment dated 23.1.1995 (Annexure-P-1). The appeal against same was also dismissed. No second appeal was preferred. Again father of plaintiff Dial Singh filed another suit regarding the same land on 22.8.2000 for permanent injunction for the same land which was also dismissed. Now, present plaintiff who was party to the first suit has filed another suit for injunction claiming that he is

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in established possession of the suit land. The learned counsel for petitioner contends that in present case, principle of res judicata is attracted. In this case, written statement has not been filed so far. The issue regarding res judicata is to be tried and decided by allowing both the parties to lead evidence and recording findings.

In these circumstances, impugned order is set aside. The trial Court is directed to obtain written statement of the parties, frame preliminary issue on the point of res judicata and allow both the parties to lead their evidence and then decide the preliminary issue by recording the findings thereon. The trial Court is directed to dispose of the case expeditiously.

Consequently, revision is disposed of.

(KULDIP SINGH)
JUDGE

8.3.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No