

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

**CR-3689-2017 (O&M)**

**Date of Decision: 16.11.2018**

Mohan Singh

...Petitioner

Versus

Vashisht Bhaskar & others

...Respondents

**Coram: Hon'ble Mr. Justice Raj Mohan Singh**

Present:            Mr. Munish Gupta, Advocate  
                             for the petitioner.

                         Mrs. Benti Kaur, Advocate  
                             for the respondents.

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**RAJ MOHAN SINGH, J. (ORAL)**

Petitioner has challenged the order dated 26.04.2017 passed by Civil Judge, Junior Division, Hoshiarpur, vide which, application filed by the petitioner under Section 10 of Civil Procedure Code, was dismissed.

Perusal of the record would show that earlier plaintiff/respondents filed a suit for possession in respect of 200 Kanals, 6 Marlas of land on the basis of defendant being a licensee. During pendency of the aforesaid suit, another suit came to be filed by the plaintiff/respondents for recovery by way of rendition of accounts claiming the defendant to be in illegal possession. The suit for possession was ultimately dismissed by the trial Court holding the petitioner to be a prospective vendee.

In the suit for recovery by way of rendition of accounts, the petitioner moved an application under Section 10 CPC for stay of suit proceedings as matter was directly and substantially in issue in the original suit for possession in which appeal was pending at the appellate stage at the relevant time. Learned counsel for the petitioner submits that the appeal filed by the plaintiff/respondents was accepted by vide judgment dated 15.05.2018 against which RSA No. 4712 of 2018 is pending in the High Court.

The application for stay of proceedings in the suit for recovery by way of rendition accounts was dismissed by the trial Court vide impugned order. Status of the petitioner in both the suits would be a bone of contention between the parties. In the earlier suit for possession, the status of the petitioner is held to be that of prospective vendee. In the suit for recovery by way of rendition of account, the status of the petitioner is claimed to be that of unauthorized occupant. The aforesaid issue between the parties is the core issue and the same is involved in both the litigations. Since RSA is pending in the high court in which the record of the Courts below have been summoned, it would be in the fitness of things that the proceedings in the suit for recovery by way of rendition of accounts may go on but final order may not be passed till adjudication of the second appeal in the High Court. In case the proceedings in the suit for recovery are reached at the final stage of decision, then, in such eventually plaintiff/respondents

may seek leave of the Court for passing final judgment by the trial Court in accordance with law.

Disposed of.

16.11.2018

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**(RAJ MOHAN SINGH)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No