

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No.4089 of 2017 (O&M)
Date of Decision: May 01, 2018**

Gurmeet Kaur and others

...Petitioners

Versus

Balbir Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Varun Garg, Advocate
for the petitioners.

Mr. Parvinder Singh, Advocate
for the respondent.

FATEH DEEP SINGH, J.

This revision petition has arisen out of an order dated 12.4.2017 (Annexure P/1) of the Court of learned Civil Judge, Junior Division, Kharar, whereby, application for consolidation of two civil suits pending in the Court stood declined and dismissed.

Heard learned counsel for the parties and perused the records of the case. A civil suit titled as Balbir Singh vs. Gurmeet Kaur (hereinafter referred to as 'first suit') for permanent injunction restraining the defendant from interfering in peaceful possession of plaintiff over land as detailed in head note of the plaint and from dispossessing the plaintiff from the said land was moved on the grounds that plaintiff Balbir Singh is in possession of the suit land and that defendant Gurmeet Kaur had claimed to be in possession of some document in favour of her husband Sukhdev Ram on the basis of which she used to threaten the plaintiff to dispossess them and, hence, the suit. This suit is purported to be filed on 03.10.2016.

Meanwhile, Gurmeet Kaur and her minor children filed a suit against Balbir Singh (hereinafter referred to as 'second suit') for specific performance of an agreement to sell dated 27.01.2011 of the same very property seeking direction to the defendant to execute the sale deed in favour of plaintiffs for this property. The brief grounds are that defendant being owner in possession agreed to sell this property to Sukhdev Ram (now deceased) predecessor-in-interest vide agreement dated 27.01.2011 and that defendant on the same date received total consideration amount of Rs.4,00,000/- from Sukhdev Ram (now deceased) and handed over physical possession of the property. The plaintiff in the second suit claimed to be widow and heirs of deceased Sukhdev Ram and, thus, the suit in question.

Appreciating the submissions of the two sides, two suits have been filed by different plaintiffs claiming different reliefs when it is the own case of the plaintiff in the second suit that Balbir Singh, plaintiff in the first suit was the owner of the suit property for which he has entered into an agreement to sell with Sukhdev Ram, husband and father of plaintiffs in the second suit and, therefore, in the first suit not much is to be adjudicated except whether owner has handed over possession after receiving total consideration from Sukhdev Ram (deceased) or not, whereas, in the second suit the material question revolves around general power of attorney dated 27.1.2011 in respect of suit property in favour of Sukhdev Ram (now deceased) a Will bearing No.454 dated 27.1.2011 in favour of Sukhdev Ram and consequential relief of permanent injunction as well. Thus, a material question arises over the validity of the Will, Power of Attorney and later enforceability upon death of principal and, therefore, distinct questions are

involved in two suits. The Court below while considering the contentions of the two sides has rightly held that common questions of law and facts are not involved in the two matters, though, the parties are common and so the subject matter of dispute but entirely different reliefs are sought to be claimed and, thus, has rightly concluded that consolidation of both the suits would not subserve any purpose and rather would complicate the matter by leading multifarious evidence. Apparently there is no illegality or perversity in the findings of the Court below and the same needs to be upheld. Thus, the present revision petition being hopelessly without any merits stand dismissed.

(FATEH DEEP SINGH)
JUDGE

May 01, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No