

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

Sr. No.119

C.R. No.4688 of 2018

Date of decision: 26.07.2018

Gurdeep Singh

....Petitioner

versus

Harbans Singh (now deceased) through his LRs Gurneet Kaur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Mukesh Kumar Bhatnagar, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral)

Through the present petition challenge is made to the order dated 22.05.2018 passed by the Civil Judge (Junior Division), Amritsar, (for short- 'the trial court') through which the application filed by the petitioner under Section 10 CPC for stay of the suit filed by the respondents/plaintiffs has been dismissed.

The facts in brief are that on 19.09.2011, Harbans Singh filed a suit against Gurdeep Singh and his wife Gurpreet Kaur seeking therein permanent injunction for restraining them from dispossessing him from a built up house bearing old khana shumari no.1512/1908, 1907/5 and new no.1811/V-12 and 1812/V-12 situated in the area of Chowk Baba Sahib, Amritsar, as also from encroaching, constructing, delivering possession, letting out and leasing out of any part of the afore property. On the death of Harbans Singh, the respondents were impleaded as his LRs and thereafter the suit was between Gurneet Kaur @ Gurjit Kaur wife of Harbans Singh,

Gurpreet Kaur daughter of Harbans Singh, Mandeep Kaur daughter of Harbans Singh as plaintiffs and Gurdeep Singh son of Harbans Singh and Gurpreet Kaur wife of Gurdeep Singh as defendants. While the suit was pending, another suit was filed by the petitioner against Gurneet Kaur @ Gurjit Kaur wife of Harbans Singh, Mandeep Kaur wife of Aman Pal Singh @ Amandeep Singh and Gurpreet Kaur wife of Vikramjit Singh. In this suit, the petitioner sought to be declared as co-owner of the following properties:-

- “i) property bearing no.1811/V-12 and 1812/V-12, situated at Chowk Baba Sahib, Amritsar;*
- ii) property i.e. one plot bearing khana shumari no.1907/XII black plate and other no. khana shumari T-9 MCA/703, silvert plate, another no.1410/12 wooden plate, other no.1741/XII-13 blue plate and other no.1907/XII-13 MCA, measuring 56.66 sq. yds. Situated at Gali Kashmiri Panditan, Chowk Farid, Kt. Sher Singh, Amritsar which is in the name of late Harbans Singh;*
- iii) property measuring 56.66 sq. yds. Bearing khana shumari no.1907/XII black plate, other khana shumari no.T-9 MCA/703 silvert plate, other no.1410/12 wooden plate, other no.1741/XII-13 blue plate and other no.1907/XII-13 MCA, situated at Chowk Farid, Gali Kashmiri Panditan, Kt. Sher Singh, Amritsar which is in the name of defendant no.2;*
- iv) Property bearing house no.2964/5-19, situated at Chowk Moni, I/s Chatiwind Gate, Amritsar, which is in the name of Amandep Singh S/o Jagir Singh, R/o 367-A, Ranjit Avenue, Amritsar, and Harbans Singh S/o Inder Singh;*

- v) *Property/house measuring total area 100 sq. yds. Old khana shumari no.3054/V-20, another no.646 and 600/5 and new no.2851/20, situated in Amritsar urban, I/s Chatwind Gate, Chowk Moni, Amritsar, purchased by late Harbans Singh s/o Inder Singh from Shri Vaishno Das S/o L. Dyal Chand etc. vide 2 sale deeds each dt. 14.10.10;*
- vi) *land bearing khasra no.4318/1979, 7138/1979, khata khatauni no.2138/3258, 2105/3225, situated at village sultanwind sub urban, Behniwal, Tehsil and District Amritsar;*
- vii) *land bearing khasra no.364/2/2,37//12/1,548, 554, 37/12/2, 38/10/2, 562, 37/6, 32/14/1, 38/11/1, 82//17/1 364/2/1 as depicted in the jamabandi of the year 2011-12, attached herewith, situated at village vallah, tehsil and distt. Amritsar in which Harbans Singh had share mentioned in said jamabandi;”*

In addition to the above, Will dated 05.07.2002 executed by Harbans Singh was also sought to be declared null and void.

After a perusal of both the afore-referred suits, it is found that the first suit is between Gurneet Kaur @ Gurjit Kaur, Gurpreet Kaur and Mandeep Kaur on one side and Gurdeep Singh and his wife Gurpreet Kaur on the other. That suit is for injunction through which, the plaintiffs therein have prayed to restrain Gurdeep Singh and his wife Gurpreet Kaur from dispossessing them from property bearing new no.1181/V-12 and 1182/V-12 situated in the area Chowk Baba Sahib, Amritsar. In contradistinction the suit instituted by the petitioner is a declaratory suit through which he seeks to be declared owner in possession of seven properties of which only one of the properties is the same as in the first suit. There are six other properties which are not the subject matter of the earlier suit filed by the respondents.

Further, in the suit filed by the petitioner, a prayer has also been made to declare the Will dated 05.07.2002 allegedly executed by Harbans Singh to be null and void. There is no such prayer in the first suit filed and pending against the petitioner and his wife.

In view of the above, neither the parties to both the suits are the same nor the prayers mentioned therein. The subject matter of both the suits is also different. That being so, the trial court committed no error in dismissing the application filed by the petitioner.

Dismissed.

(DEEPAK SIBAL)
JUDGE

July 26, 2018

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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No