

In the High Court of Punjab and Haryana at Chandigarh

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Civil Revision No.5953 of 2016 (O&M)

.....

Date of decision:24.5.2018

Rajesh Kumar

.....Petitioner

v.

Manavjit Kaur and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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

Mr. Aashish Chopra, Advocate for the respondents.

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Inderjit Singh, J.

This civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 28.7.2016 (Annexure-P.6) passed by the learned Civil Judge (Junior Division), Chandigarh, vide which the suit filed by the plaintiff-petitioner has been stayed till decision of earlier suit.

Notice of motion was issued in this case.

Mr. Aashish Chopra, learned Advocate has put in appearance on behalf of respondents and contested this civil revision petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that during the pendency of suit, an application under Section 10 CPC read with Section 151 CPC for stay of the suit had been filed by the defendant (respondent No.1 herein).

The brief facts as stated in the application are that the present

suit has been filed whereby the plaintiff is seeking partition of the House No.506, Sector 8-B, Chandigarh on the ground that he has purchased the share to the extent of 2/3rd by virtue of sale deed dated 21.04.2011 from its earlier owners, namely Smt. Satjit Kaur and Sh. Girish Pal Singh. He claimed that the said sale deed by earlier co-owner is bad and null and void. It has been further submitted that the predecessor of defendant had already filed a suit seeking declaration against the plaintiff to the extent that sale deed in question be declared illegal, null and void and the plaintiff be restrained from selling, alienating, transferring the said house which is pending in the Court of learned Civil Judge (Junior Division), Chandigarh. It has also been stated in the application that the plaintiff is intentionally not disclosing about the fact of pendency of the above said suit and claiming that no similar type of suit is pending in any Court at Chandigarh. It has also been stated in the application that the plaintiff has not stated this fact that the dispute in the present suit is the same as in the earlier suit. It has also been stated that both the suits are between the same parties regarding the same subject matter and this suit should be stayed.

Reply to the application was filed by the plaintiff, who stated that after the purchase of 2/3rd share by the plaintiff from Smt. Satjit Kaur and Girish Pal Singh by virtue of sale deed dated 21.4.2011, the plaintiff has become co-owner to the extent of 2/3rd share and 1/3rd share is owned by the defendant and after this the property in question has been transferred in the name of plaintiff in the records of Estate Office. It has also been stated that the plaintiff being the co-owner of the property is competent to institute suit for partition against the defendant.

The learned Civil Judge (Junior Division), Chandigarh, vide the impugned order accepted the application and stayed the suit.

From the impugned order dated 28.7.2016 passed by the learned Civil Judge (Junior Division), Chandigarh, I find that the same is correct as per law. In both the suits i.e. present suit and the previously instituted suit by predecessor of the defendant the parties are the same. The subject matter is also regarding the validity of sale deed dated 21.4.2011 in which the present plaintiff is stated to have purchased 2/3rd share in the property. As both these suits are regarding the same subject matter and between the same parties, therefore, under Section 10 CPC the second suit is liable to be stayed. If this application is not allowed, then there is every chance of contradictory judgments in both the suits. To avoid such a situation, Section 10 CPC has been incorporated in the CPC. Therefore, the present suit is liable to be stayed till the final decision of the previously instituted suit between the parties.

Therefore, from the above discussion, I find that the impugned order is correct as per law which does not require any interference of this Court and the same is upheld.

Finding no merit in this civil revision petition, the same is accordingly dismissed.

May 24, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No