

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7565-2017 (O&M)

Date of decision : 19.2.2018

Smt. Girrajo

..... Petitioner

Versus

Satto Devi and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Harkesh Manuja, Advocate for the 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 ?*

KULDIP SINGH J. (ORAL)

No one is present on behalf of the respondents to assist the Court. Therefore, this Court has gone through the file and perused the record.

Heard.

Impugned in the present revision petition is the order dated 20.9.2017 (Annexure P-1), passed by learned Civil Judge, (Junior Division), Hodal, vide which application filed by the petitioner for treating newly framed issues No. 3A and 3B as preliminary issues in a suit titled as “***Satto Devi vs. Market Committee, Hassanpur and others***” was dismissed.

Learned counsel for the petitioner has contended that plaintiff-respondent has previously filed a suit in the year 1985 claiming 1/2 share in plot No. 8 against Smt. Girrajo and Dharam Singh. The suit was dismissed on 7.2.2006 (Annexure P-7) by learned Civil Judge (Junior Division),

Palwal. No appeal was filed against the said dismissal of suit.

Therefore, findings of the said suit had become final.

Now in the year 2015, the same claim has been made in the present suit by adding two more defendants namely Market Committee Hassanpur-respondent No. 2 and Sangeeta-respondent No. 3.

It is stated that findings in the first suit are binding in second suit and suit is hit by Section 11 of the Code of Civil Procedure, 1908.

After going through the plaint and judgment in the previous suit, I am of the view that matter regarding *res judicata* is required to be decided at the earliest to avoid any unnecessary delay and expenses in deciding the controversy.

The plea regarding issue No. 3B has not been pressed at this stage. Therefore, issue No. 3A regarding principal of *res judicata* is ordered to be treated as preliminary issue which can be decided after directing the parties to file the plaint, written statement and judgment of the previous suit.

Accordingly, trial Court is directed to consider issue No. 3 A as the preliminary issue and decide the same after affording opportunity to both the parties to file documents/lead evidence.

With the above direction, present revision petition is partly allowed.

(KULDIP SINGH)
JUDGE

19.2.2018
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Whether speaking / reasoned
Whether Reportable:

Yes
No