

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

T.A.No.296 of 2018 (O&M)

Date of Decision: August 30, 2018

Arjan Dev

...Petitioner

Versus

Devinder Pal Wadhawa & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. K. S. Bassi, Advocate,
for the petitioner.

Mr. Arun Jindal, Advocate &
Mr. Rishab Jain, Advocate,
for respondent No.1.

Mr. Raman Sharma, Advocate,
for respondent Nos.2 & 3.

Mr. G.S.Attariwala, Advocate &
Mr. Kapil Khanna, Advocate,
for respondent No.4.

Mr. Rahul Bhargava, Advocate,
for respondent Nos.5 & 6.

AMIT RAWAL, J.

Written statement filed on behalf of respondent Nos.2 and 3
today in Court is taken on record.

The present transfer application has been filed on behalf of the
plaintiff in a civil suit No.36 dated 20.3.2017 filed at Sangrur titled as
“Arjan Dev Versus Devinder Pal Wadhawa & others” claiming the
following relief:-

*“(A) Suit for declaration to the effect that the plaintiff,
defendant no.1 and performa defendant nos.5 and 6 are owner*

in joint possession (i.e. 1/4th share each of plaintiff, defendant no.1 and defendant nos.5 and 6) of residential plot no.167 measuring 200 sq.yards situated at Mansahia Nagar, Improvement Trust Sunam Road, Sangrur and defendant no.4 be directed to get incorporate the names of plaintiff, defendant no.1 and defendant nos.5 and 6 as joint owners of the property as detailed above in their records;

(B) Suit for recovery of amount i.e. 1/4th share of amount of service benefits in the name of Tek Chand son of Khushi Ram which amount has been received by defendant no.1 from defendant nos.2 and 3.

(C) Suit for declaration that plaintiff is entitled to recover his 1/4th share out of share/equities held by Tek Chand detailed as:-

<i>Sr.No.</i>	<i>I.S.I.N.</i>	<i>Name of Company</i>	<i>No. of securities</i>
1	INE029A01011	Bharat Petroleum Corporation Ltd.	1400
2	INE085A01013	Chambal Fertilizers and Chemical Ltd.	300
3	INE548A01028	Himachal Futuristic Communication Ltd.	1500
4	INE094A01015	Hindustan Petroleum Corporation Ltd.	400
5	INE043D074AF2	IDFC Ltd.	4
6	INE039A01010	IFCI Ltd.	1000
7	INE862E01013	Indian Acrylics Ltd.	200
8	INE945A01026	JCT Ltd.	275
9	INE019A01020	JSW Steel Ltd.	6
10	INE390A01017	Maars Software	1000
11	INE103A01014	Manglore Refinery and Petro Chemical Ltd.	500
12	INE083A01026	Morepen Laboratories Ltd.	500
13	INE083A01026	Norben Tea	1000
14	INE202A01022	Pentamedia Grap	1000
15	INE134E07083	Power Finance Corp Ltd.	4
16	INE877F01012	PTC India Ltd.	500
17	INE02A01015	Rashria Chemicals and Fertilizers Ltd.	300
18	INE292A01015	Uttam Value Steels Ltd.	700
19	INE702A01013	Varun Shipping Company Ltd.	1000

(D) Suit for mandatory injunction directing the defendant no.1 to account for the shares/equities as detailed in heading

(C) of the plaint and further directing the defendant nos.2 and 3 to transfer the name of plaintiff as joint holder to the extent of 1/4th share in the shares/equities as detailed in heading (C) of the plaint; in the alternative in case the said shares/equities have been encashed by the defendant no.1 then suit for recovery of 1/4th share out of the amount realized by the defendant no.1 from the encashment/sale of the shares/equities.

(E) Suit for permanent prohibitory injunction restraining the defendant no.1 to alienate, mortgage or in any other manner dispose off the suit property as detailed in heading (A) of the plaint and further restraining the defendant no.1 from dispossessing or interfering in the peaceful joint possession of plaintiff over the suit land as detailed in heading (A) of the plaint and further restraining defendant no.1 from realizing the amount of the shares/equities as detailed in heading (C) of the plaint and further restraining defendant nos.2 and 3 from encashing the shares/equities in case the same has not been encashed; or any other relief.

However, suit with regard to identical relief has been filed on behalf of defendant No.1 in the aforementioned suit being a plaintiff prior in time, i.e., civil suit No.29 dated 6.2.2017. The description of the same reads as under:-

“Suit for declaration to the effect that the plaintiff is owner of plot No.47, measuring 223 Sq.Yards, bearing khasra No.159 (4-0), situated in village Sultanpur, Tehsil & District Ambala

and

also the owner of the shares left by Sh.Tek Chand Wadhawa son of Sh.Khushi Ram.

<i>Sr.No.</i>	<i>I.S.I.N.</i>	<i>Name of Company/Bank</i>	<i>No. of securities/ Amount</i>
1	INE029A01011	Bharat Petroleum Corporation Ltd.	800
2	INE085A01013	Chambal Fertilizers and Chemical Ltd.	300
3	INE548A01028	Himachal Futuristic Communication Ltd.	1500
4	INE094A01015	Hindustan Petroleum Corporation Ltd.	400
5	INE043D074AF2	IDFC Ltd.	4
6	INE039A01010	IFCI Ltd.	1000
7	INE862E01013	Indian Acrylics Ltd.	200
8	INE945A01026	J.C.T. Ltd.	275
9	INE019A01020	J.S.W. Steel Ltd.	6
10	INE390A01017	Maars Software	1000
11	INE103A01014	Manglore Refinery and Petro Chemical Ltd.	500
12	INE083A01026	Morepen Laboratories Ltd.	500
13	INE083A01026	Norben Tea	1000
14	INE202A01022	Pentamedia Grap	1000
15	INE134E07083	Power Finance Corp Ltd.	4
16	INE877F01012	PTC India Ltd.	500
17	INE02A01015	Rashria Chemicals and Fertilizers Ltd.	300
18	INE292A01015	Uttam Value Steels Ltd.	700
19	INE702A01013	Varun Shipping Company Ltd.	1000
20	Saving Bank A/c No.016201000019	ICICI Bank Patiala	Rs.2,00,000/-
21	All shares are in Demt A/c No.IN-30267930003513	ICICI Bank, Leela Bhawan, Patiala	

and

residential plot No.167, measuring 200 Sq.Yards situated at Mansahia Nagar, Improvement Trust, Sunam Road, Sangrur.

And

plot measuring 0-10 marlas (300 Sq.Yards) out of land measuring 44 kanals-8 marlas bearing khasra No.41//3/2 (4-8), 9(8-0), 10 (8-0), 11 (8-0), 12 (8-0), 13/1 (4-8), 13/2 (3-12), khewat/khatauni No.379/704, 3/888 share (0-3) marlas and land measuring 0-7marlas out of land bearing khasra No.41//2/1 min

(0-7), khewat/khatauni No.342/655 as per jamabandi for the year 2004-05 situated at Haji Rattan (Baba Deep Singh Nagar) Bhatinda, bounded as under:-

East : 37 feet passage-20 feet
West : 37 feet property of Prem Gupta
North : 75 feet property of Nasib Kaur
South : 75 feet property of Prem Gupta
and

for permanent injunction restraining defendants, their attorneys not to transfer, alienate in any way and not to create any charge on the above said property.”

On commutative reading of the relief and the description of the property, it is evident that relief is identical. The written statement in the first suit at Ambala is July, 2017, but of course the suit at Sangrur had been filed in March, 2017. This Court has been informed that an application under Section 10 of Civil Procedure Code has been filed. In such circumstances, I am of the view that no ground is made out for transfer of Civil Suit No.29 dated 6.2.2017 titled as “Devinder Pal Wadhawa Versus Arjun Dev & others”. Resultantly, the transfer application is dismissed.

It is made clear that in case the property is not same, defendants are at liberty to seek amendment of the written statement or file a counter claim at Ambala.

August 30, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No