

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIGARH

CR No.102 of 2019
Date of decision : 21.01.2019

Arshdeep Petitioner

Versus

Ram Saroop Respondent

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Aditya Dassuar, Advocate for the petitioner.

B.S. WALIA, J. (ORAL)

[1] Revision petition has been filed under Article 227 of the Constitution of India read with Section 151 CPC for setting aside order dated 07.12.2018 (Annexure P-8) passed by the learned Civil Judge (Jr. Div.) Phagwara in civil suit No.3622 of 2013/suit No.28 dated 15.02.2011 titled as "Arshdeep vs Ram Saroop" in which the application filed by the petitioner for deciding only civil suit No.256 dated 15.11.2010 titled as Ram Saroop vs Arshdeep was dismissed.

[2] Brief facts of the case leading to the filing of the revision petition are that the petitioner had filed civil suit No.28 of 15.02.2011 against the respondent for symbolic possession by way of specific performance of agreement to sell dated 05.12.2000 and also sought declaration that he was owner of the house in dispute. Respondent herein also filed civil suit No. 256 of 15.11.2010 titled as Ram Saroop vs Arshdeep

against the petitioner seeking declaration that the agreement dated 05.12.2000 was inoperative.

[3] Vide order dated 14.12.2012 civil suit No.256 dated 15.11.2010 titled as Ram Saroop vs Arshdeep filed by the respondent was ordered to be clubbed for hearing with civil suit No.28 dated 15.02.2011 titled as Arshdeep vs Ram Saroop filed by the petitioner.

[4] Both the civil suits were tried together and the learned Civil Judge (Jr. Div.), Phagwara vide order dated 30.05.2016 (Annexure P-2) decreed civil suit No.28 dated 15.02.2011 filed by the petitioner. However, no mention was made in the judgment and decree with regard to civil suit No.256 dated 15.11.2010 filed by the respondent nor was any finding recorded qua said civil suit.

[5] On appeal having been filed by the respondent against the judgment and decree dated 30.05.2016 (Annexure P-2) in civil suit No.28 dated 15.02.2011, counsel for the parties suffered a statement for remand of the case to the learned trial Court for proper decision of civil suit No.256 titled as Ram Saroop vs Arshdeep. On the basis of the statement suffered by counsel for the parties, the learned Additional District Judge, Kapurthala taking into account the grievance of the respondent of his case having remained un adjudicated, remanded the case to the learned trial Court with a direction to decide the matter afresh.

[6] In the motion hearing, learned counsel for the petitioner had contended that evidence in both the cases had been recorded by the learned trial Court wherein the respondent had made certain admissions in evidence, therefore, in case the judgment and decree of the trial Court was set aside, the benefit of admission made by the respondent in favour of the appellant

would no longer survive.

[7] However, today learned counsel for the petitioner contended that on remand both the cases had been listed for decision by way of arguments only. In the circumstances, the apprehension of the petitioner and the very basis for filing the revision petition is without any basis.

[8] Both the civil suits had been clubbed on an application moved by the respondent vide order dated 14.12.2012, therefore, both the civil suits were required to be decided together in order to ensure not only convenience in the decision of the two civil suits but also to ensure that no conflicting decision was passed in the two civil suits. Accordingly, I do not find any circumstances whatsoever warranting interference with the impugned order passed by the learned trial Court dismissing the application of the petitioner to decide only civil suit No.256 of 15.11.2010 titled as Ram Saroop vs Arshdeep.

[9] Accordingly, finding no merit in the revision petition, the same is dismissed in limine.

(B.S. WALIA)
JUDGE

21.01.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.