

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.7002 of 2018(O&M)
Date of Decision: 18.09.2019

Rajni Bala and others

.....Petitioners

Versus

Gurbakhsh Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. K.S. Rekhi, Advocate
for the petitioners.

None for the respondents.

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the order dated 27.08.2018 passed by Civil Judge (Junior Division), Phillaur, vide which application filed by the petitioners under Order 1 Rule 10 CPC was dismissed.

[2]. Petitioners are daughters and widow of Surinder Nath Sharma who was original owner of the suit property. Surinder Nath Sharma has expired on 10.02.2004, leaving behind legal representatives i.e. petitioners and respondents No.2 to 6. Respondent No.1 Gurbakhsh Singh filed a suit for specific

performance against respondents No.2 to 6. Respondents No.2 to 5 allegedly became owner of the suit property on the basis of Will executed by Surinder Nath Sharma and mutation No.769 was sanctioned in their favour. On the basis of said status, they have entered into agreement to sell with respondent No.1 on 08.02.2013. The suit for specific performance is pending on that premise. On the other hand, petitioners have also filed suit for declaration, seeking their entitlement to the extent of 1/8th share in the estate left by Surinder Nath Sharma. The said suit is also pending. The factum of Will is under challenge in a declaratory suit filed by the petitioners and the same is pending in Court No.3 of Sh. Harpreet Singh, Civil Judge (Junior Division), Phillaur. The present suit for specific performance is pending in Court No.2 of Ms. Jaspreet Kaur, Civil Judge (Junior Division), Phillaur.

[3]. Apparently, petitioners have laid challenge to the Will allegedly executed by deceased Surinder Nath Sharma in favour of defendants No.1 to 4. Petitioners are daughters and widow of late Sh. Surinder Nath Sharma. The entitlement of the petitioners in any case would have effect on the prospects of pending suit for specific performance. In case, the suit filed by the petitioners for declaration qua Will is accepted, the shares of respondents No.2 to 5 would be decreased.

[4]. Since both the suits are pending in two different Courts, therefore, in order to avoid conflicting decision, it would be appropriate to direct that both the suits be placed before the same Court and be decided by the same Court. It is because of the fact that the factum of Will is under challenge in a declaratory suit filed by the petitioners and the entitlement of defendants No.1 to 4 to the extent of share agreed to be sold by way of agreement to sell is under challenge. Even if, the question of entitlement of the applicants cannot be decided in a suit for specific performance, but the decision of declaratory suit would definitely create an effect on the suit for specific performance.

[5]. As per office report, respondents No.1 to 3, 5 and 6 have been duly served. Respondent No.4 has also been served through his brother namely Jaipal. There is no representation on behalf of the respondents.

[6]. In the light of aforesaid facts, it would not be in the interest of justice to interfere in the impugned order dated 27.08.2018 passed by Civil Judge (Junior Division), Phillaur, vide which application filed by the petitioners under Order 1 Rule 10 CPC was dismissed, however, it would be in the fitness of things that both the suits pending in Court Nos.2 and 3 at Phillaur be sent to one of the aforesaid Courts for deciding the

same in accordance with law. The District Judge, Jalandhar may pass appropriate order for sending one of the suit to another Court where the second suit is pending with a direction to decide both the suits simultaneously by construing the stages of the suits harmoniously. The difficulty (if any), be pointed out by the trial Court to the Court of District Judge, Jalandhar in due course.

[7]. Disposed of.

18.09.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No