

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

118

CR No.799 of 2020

Date of decision : 04.02.2020.

Kishori Lal and others

... Petitioners

Versus

Vishal Malik and others

.. Respondents

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Ms. Amrita Nagpal, Advocate for the petitioners.

Anupinder Singh Grewal, J. (Oral)

The petitioners have impugned the order dated 02.11.2019 whereby the application filed under Section 10 of the Civil Procedure Code (for short, 'the CPC') for stay of the suit has been dismissed.

Learned counsel for the petitioners contends that the petitioners had filed a suit for declaration on 02.09.2019 that the Will bearing Vasika No.398/1 dated 18.12.2000 is null and void which is pending adjudication. The suit although instituted on 02.09.2019, is now at the fag end. The decision in that suit shall have a bearing on the instant suit which is for specific performance of agreement to sell dated 08.07.2013 and therefore, it should be stayed.

Heard.

The instant suit for specific performance was instituted by respondent No.1 in the year 2019 while the aforementioned suit for declaration that the Will is null and void, was filed on 02.09.2016. In terms of the provisions of Section 10 of the CPC, the suit is to be stayed when the matter in issue

is directly and substantially in issue with a previously instituted suit between

the same parties. It is also borne out from the material on record that respondent No.1, namely, Vishal Malik, who is the plaintiff in the instant suit, is not a party in the aforementioned suit which has been preferred for challenging the Will.

There is no merit in the contention of learned counsel for the petitioners that the trial of the suit which was preferred in the year 2019 after the institution of the instant suit, is at the fag end and is nearing conclusion. A bare reading of Section 10 of CPC shows that the stay of suit shall be granted in the event of another suit on the same issue being previously instituted. A suit cannot be stayed on the ground that another suit although filed subsequently is likely to conclude during the pendency of the previous suit.

Consequently, I do not find any merit in this petition and the same stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

February 04, 2020
sonia gugnani

Whether speaking/reasoned	:	Yes
Whether Reportable	:	Yes/No