

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

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**CR-367-2021 and CR-612-2021
Date of decision: 27.10.2022**

GIRDHARI LAL JINDAL

...Petitioner

Versus

JAWAHAR LAL JINDAL AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Prateek Gupta, Advocate
for the petitioner.

Mr. Varinder Arora, Advocate for
for respondent No.2.

ANIL KSHETARPAL, J (Oral)

This order shall dispose of CR No.367 and 612 of 2021.

One revision petition has been filed by Sh. Girdhari Lal Jindal, whereas,
the other Civil Revision Petition has been filed by his wife-
Smt.Chitarlekha Jindal.

Some facts are required to be noticed.

Sh. Girdhari Lal Jindal and his brother Sh. Jawahar Lal
Jindal were owners of House No. 3141, Sector-20-D, Chandigarh, to
equal extent. Sh. Girdhari Lal Jindal claims that in a family settlement
which was reduced into writing on 12.10.1985, Sh. Jawahar Lal Jindal
conceded that Sh. Girdhari Lal Jindal is the absolute owner of the
property.

Sh. Jawahar Lal Jindal filed a suit for partition claiming
50% share in House No.3141 Sector-20-D, Chandigarh. Sh. Girdhari
Lal Jindal filed his written statement alongwith a counter claim claiming
that he is the absolute owner of the property on the strength of a family

settlement. In the meantime, Sh. Jawahar Lal Jindal transferred 50% share in the property to Sh. Manoj Aggarwal. Subsequently, Sh. Jawahar Lal Jindal withdrew his suit. An application under Order 7 Rule 11 CPC to reject the counter claim was filed by Sh. Jawahar Lal Jindal, wherein, it was claimed that since Sh. Girdhari Lal Jindal has already transferred his 50% share in favour of his wife-Smt. Chitarlekha Jindal and has also filed a separate suit seeking decree of declaration, challenging the sale deed executed by Sh. Jawahar Lal Jindal in favour of Sh. Manoj Aggarwal, therefore, the counter is liable to be rejected. The Court has allowed the application under Order 7 Rule 11.

During the pendency of the present revision petition, a separate suit filed by Sh. Girdhari Lal Jindal seeking a decree of declaration has been dismissed by the trial Court vide detailed judgment dated 04.02.2022.

This bench has heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

In Civil Revision No.612 of 2021 Smt. Chitarlekha Jindal assails the correctness of the order passed by the trial Court while dismissing her application under Order 1 Rule 10 of the Code of Civil Procedure 1908, in the counter claim filed by her husband.

This court has examined the judgment passed by the trial Court on 04.02.2022 in separate suit filed by Sh. Girdhari Lal Jindal. The petitioner Sh. Girdhari Lal Jindal has not only sought a decree of the declaration that the sale deed in favour of Sh. Manoj Aggarwal is null and void, being an outcome of fraud and fabrication but he has also

pleaded that as per the family settlement, he is the absolute owner of the peroperty.

Though, the trial Court has not framed any distinct issue on the correctness of the family settlement, however, it has discussed its effect. The first appeal filed by Sh. Girdhari Lal Jindal is pending in the Court. In fact, the subsequent suit filed by Sh. Girdhari Lal Jindal is more comprehensive.

Keeping in view the aforesaid facts, it would not be appropriate to promote multiplicity of litigation. Smt. Chitarlekha Jindal can file an application for being impleaded as a party in the pending first appeal.

Keeping in view of the aforesaid facts, the revision petitions are disposed of with liberty to both the petitioners to file an appropriate application before the first Appellate Court in this regard.

27.10.2022
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(ANIL KSHETARPAL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No