

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

**CM-9633-CII-2022 in/and
CR-1856-2020 (O&M)
Date of decision : 25.08.2022**

Ranbir Singh **...Applicant-Petitioner**
Vs.
Baljeet Singh and another **...Respondents**

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Chanderhas Yadav, Advocate
for the applicant-petitioner.

MANOJ BAJAJ, J.

CM-9633-CII-2022

This application has been filed under Section 151 CPC for pre-poning the date of hearing of the main petition to an early date, which is fixed for 11.10.2022.

Notice in the application was issued on 22.08.2022, however, despite service no one has put in appearance on behalf of the respondents.

For the reasons mentioned in the application, same is allowed and the date of hearing is pre-poned to today.

Main case

Petitioner (defendant) is aggrieved against the order(s) of even date i.e 11.02.2020 passed in his separate transfer application Nos.TA-25-2019 and TA-26-2019 in civil suit titled as “Baljeet Vs. Ranbir” and “Dalbir Vs. Ranbir” filed by respondents/plaintiffs, were dismissed.

Learned counsel has argued that the petitioner/defendant had borrowed money from Baljeet Singh and as security also executed two agreements to sell dated 12.11.2010 and 23.11.2010, but despite return of the

loan amount, the plaintiffs, who are brothers have filed two separate suits seeking specific performance of the said agreements. He submits that since the suit property as well as the vendor are common, therefore, he moved separate applications in both these suits for transferring them to another Court of competent jurisdiction for trying them together. He submits that the District Judge, Jhajjar has not appreciated the facts and background of the case carefully while dismissing both the transfer applications through impugned order(s) dated 11.02.2020. According to the learned counsel, in case the suits are transferred to some third Court, no prejudice would be caused to the other side and he prays that the impugned order(s) be set aside and the defendant's applications filed under Section 24 read with Section 151 Code of Civil Procedure be allowed. In support of his argument, learned counsel has placed reliance upon the decisions of this Court passed in “Mustaq Ahmed Vs. Mohd.Ramzan and others” in CR-5832-2004 and “Ved Parkash Vs. Amar Singh and another”, 1995 (2) RRR 86 (SC).

During the course of hearing, it is not disputed by learned counsel that the plaintiffs in both the suits are different and agreement to sell relied upon by them are also of different dates. Thus, this Court has no hesitation in holding that the suits are based upon different set of facts and cause of actions, and merely because the plaintiffs are real brothers and vendor/defendant is common would not be ground to transfer these suits to some other Court. It is also not disputed by learned counsel that one of the suits is at final stage, therefore, this Court does not find any valid ground to accept the prayer for transfer of suits. Besides, the suits would be decided on the basis of respective pleading and evidence, of the parties.

The judgments relied upon by the petitioner are not applicable in the present facts and circumstances of the case as in those cases, the issue of impleadment of necessary party under Order I Rule 10 CPC was examined.

A perusal of the impugned order shows that the District Judge Jhajjar has carefully examined the pleadings of the plaintiff and defendant in both the applications before dismissing the same and the order(s) are based upon proper appreciation of material and law on the subject.

Thus, no interference is called for by exercising the revisional jurisdiction.

Dismissed.

(MANOJ BAJAJ)
JUDGE

25.08.2022
vanita

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