

CR-2584-2018 (O&M)

223 (1st case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2584-2018 (O&M)

Date of decision: May 31, 2023

Yushaf

....Petitioner

versus

Bittu Ram and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Abdul Shehbaz Thind, Advocate for petitioner.

Mr. Aayush Gupta, Advocate for respondents No.1 to 3.

ARUN MONGA, J. (ORAL)**CM-7795-CII-2018**

For the reasons stated in application, same is allowed subject to all just exceptions.

Main case (O&M)

Petition herein *inter alia* is for setting aside the impugned order dated 08.03.2018 (Annexure P-4) passed by learned Civil Judge (Junior Division), Ludhiana whereby application dated 07.08.2017 (Annexure P-1) filed by petitioner-plaintiff for consolidation of suits titled as “Yusuf Vs. Bittu Ram and others” with civil suit titled as “Yusuf Vs. Rukumdin and others”, was dismissed.

2. Averments are that petitioner-plaintiff filed Civil Suit No.43894 of 2013 (Annexure P-2) titled as “Yusuf Vs. Rukumdin and others” for grant of permanent injunction restraining defendant/ respondent No.4, his employees, agents, servant, associates etc. from interfering or causing to interfere in the peaceful possession of plaintiff and from dispossessing or causing to dispossess plaintiff illegally and forcibly and from causing any interference in use of property i.e., “*Gujjaran da dera*” in any manner whatsoever.

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2.1. During pendency of said suit, respondents No.1 to 3 in connivance with respondent No.4 started threatening and tried to interfere in the peaceful possession of plaintiff. As such, plaintiff filed another separate civil suit bearing No.42161 of 2013 (Annexure P-3) titled as “Yusuf Vs. Bittu Ram and others”.

2.2. Respondents No.1 to 3 moved an application under Order I Rule 10 read with Section 151 of Code of Civil Procedure, 1908 (for short ‘CPC’) for impleading them as defendants in civil suit titled as “Yusuf Vs. Rukumdin”. Said application was allowed and they were impleaded in the said suit. Respondent No.4 was later on proceeded against *ex parte*.

3. Learned counsel for petitioner-plaintiff contends that since same property is involved and contesting parties in both the civil suit are same, petitioner had filed application for consolidation of both the suits requesting to decide them by way of one judgment. But, learned Civil Judge (Junior Division), Ludhiana vide impugned order dated 08.03.2018 (Annexure P-4) dismissed the said application.

4. I have heard learned counsel for the parties and perused the record.

5. Impugned order dated 08.03.2018 (Annexure P-4) is premised *inter alia* on the following reasoning:

“4. I have heard the rival contentions of both the parties and have perused the case file carefully. Applicant/ plaintiff vide present application is seeking relief of consolidation of suits. It is pertinent to mention here that though property involved in both the suits is same but both the suits are based on different cause of action. Applicant/ plaintiff has filed civil suit titled as “Yushaf Vs. Rukamdin” on 08.09.2011 against his son Rukumdin son of plaintiff is not a party. It would not be appropriate to consolidate both the suits together as they are against different parties and are based on different cause of action. However, both the suits are hereby ordered to be tried together and are ordered to be decided together.”

6. From the perusal of the aforesaid, I am in agreement with the reasoning adopted by the learned Court below and find no grounds for interference in the same. Furthermore, in my opinion concern and apprehension of petitioner/plaintiff with regard to contradictory judgments arising out of different

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suits and therefore, seeking consolidation of the same, have already been addressed by learned Court below by ordering that suits will be tried together and ordered together. In order to avoid any ambiguity, it is also expected of learned Court below that final arguments will be heard in both the suits on the same day.

- 7. Disposed of, accordingly.
- 8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 31, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No