

2023:PHHC:146978

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3542-2021(O&M)

Date of Decision: November 20, 2023

Gurpreet Singh

...Petitioner

Versus

Balbir Singh and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Aditya Dassaur, Advocate
for the petitioner.

Mr.Kanishk Sarup, Advocate
for respondent No.1.

Ms.Tejaswini, Advocate
for respondent No.2.

ARCHANA PURI, J.

Challenge in the present petition is to the order dated 24.09.2021 passed by learned Court below, whereby, an application under Order 1 Rule 10 CPC, filed during the pendency of the suit bearing number CIS-623-2019, titled as 'Gurpreet Singh vs. Balbir Singh', at the instance of respondent No.2-Manjot Singh was allowed.

Relationship existing between the parties, as such, is not disputed.

Petitioner Gurpreet Singh is son of respondent No.1-Balbir

Singh and respondent No.2-Manjot Singh is grandson of respondent No.1 (being daughter's son).

The essential facts, as culled out, from the paperbook are as follows:-

That, initially, respondent No.1-Balbir Singh had filed a suit for issuance of permanent injunction to restrain present petitioner as well as Manjot Singh-respondent No.2 and Ramandeep Kaur (wife of present petitioner), from entering into the suit property, as detailed in the headnote of the plaint, the detail whereof is evident from Annexure P-2. However, during the pendency of the said suit, a compromise had taken place between Balbir Singh and Ramandeep Kaur (wife of Gurpreet Singh), prior to the effecting service of Gurpreet Singh, who was reported to have gone abroad and service of Manjot Singh, who was minor, at that time. Copy of the compromise, so reached between the parties, is Annexure P-1. As per the same, the suit property, where there existed a house and was of an area of 7½ marlas was transferred in the name of Gurpreet Singh and his minor son Loveleen Singh. In the said compromise, there was specific recital about daughter or maternal grandson Manjot Singh, to have no concern or right in the house shown in Annexure 'A'. On the basis of the said compromise, statement of Balbir Singh (plaintiff in the suit) was recorded, copy whereof is Annexure P-2 and he had made the statement that suit be dismissed as withdrawn, on the basis of the said compromise, which came on record as Ex.C1, along with site plans Ex.C2 and Ex.C3. On the basis of the aforesaid statement, the matter was taken up in the Lok Adalat and it was dismissed in

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National Lok Adalat, held on 13.07.2019. Copy of the said order is Annexure P-3.

However, Gurpreet Singh, who was defendant No.2, in the earlier suit, had again filed a suit, qua the same property, against his father Balbir Singh, thereby, seeking declaration to assert his ownership in possession of the house i.e. having an area of 7½ marlas, which related to the same suit property. During the pendency of the said suit also, a compromise was effected between Gurpreet Singh and Balbir Singh, copy whereof is Annexure P-5. In the same also, there was some adjustment, with regard to the monthly allowance to be paid by Gurpreet Singh to his father and taking proper care of his father. On the basis of the said compromise, statement was got recorded by defendant-Balbir Singh, in the Court, on 21.10.2019, thereby, stating about the compromise having effected with Gurpreet Singh and that he has no objection, if the suit of the plaintiff (i.e. Gurpreet Singh) is decreed. Similar, statement was also made by Ramandeep Kaur, attorney of plaintiff. Even, the copy of the alleged compromise dated 18.10.2019 was taken on record. However, on the same date, in pursuance of the disposal of an application under Order 39 Rule 1 and 2 CPC, being not pressed, an application under Order 1 Rule 10 CPC was filed by Manjot Singh, son of Amandeep Kaur i.e. grandson of Balbir Singh.

In the said application, it was asserted that Civil Suit No.368-2019 was filed on 07.05.2019, with regard to the suit property i.e. same subject matter, in which defendant No.2 is already making appearance and

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the case is fixed for 13.11.2019. It is further submitted that he is residing in the property in question and Balbir Sing had not raised any construction and he is residing in the other portion, whereas, Ramandeep Kaur is occupying half portion, as shown, in the yellow in the site plan.

However, reply to the said application was filed, thereby, disputing maintainability, locus standi and also about the applicant to be neither proper nor necessary party to the litigation involved. On merits, it was submitted that the matter has already come to end, in pursuance of the compromise effected, relating to which the suit was dismissed as withdrawn, in the Lok Adalat on 14.12.2019.

Undisputedly, as submitted by learned counsel for the petitioner, the compromise had earlier taken place between the petitioner as well as respondent No.1, relating to which, the suit was withdrawn, on the basis of the compromise, before the National Lok Adalat on 13.07.2019. In the same, though Manjot Singh was impleaded as party, but however, prior to effecting of the service, the compromise had been effected. Till date, the order of withdrawal of the suit, on the basis of the compromise, has never been challenged, by way of writ petition. Even though, in the application under Order 1 Rule 10 CPC, it is submitted that the suit has been filed by the applicant-Manjot Singh, which is bearing No.368-2019, but however, it is pertinent to mention that learned counsel for the petitioner has brought to the notice of the Court that this suit has since been withdrawn vide order dated 14.12.2019. This order has been verified from the website, which clearly states about Civil Suit No.368-2019 having been dismissed as

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withdrawn, as the matter has been compromised between the parties and this statement was made by Manjot Singh.

In the light of the aforesaid, also it is pertinent to mention that the suit property was owned by Balbir Singh. During the pendency of two different suits, compromise has been effected between Balbir Singh with his son through Ramandeep Kaur (wife of Gurpreet Singh). Respondent No.2-Manjot Singh is the grandson of respondent No.1, being daughter's son. At the most, he could drive his interest in the suit property, only through his mother, who is still alive.

In the given circumstances, when the property is asserted to be self-acquired property of respondent No.1, till date, respondent No.2-Manjot Singh, as such, has no right to assert, more particularly, when the suit bearing CS No.368-2019 has since been withdrawn by him, specifically stating about the compromise having effected between the parties.

In view of the aforesaid observation, in any manner, it cannot be concluded that respondent No.2-Manjot Singh is proper or necessary party. Hence, the present revision petition is hereby allowed and the impugned order dated 24.09.2021 is set aside. Consequently, application under Order 1 Rule 10 CPC filed by Manjot Singh stands dismissed.

November 20, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No