

2024:PHHC:020803

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.297 of 2024 (O&M)

Date of Decision:14.02.2024

Sharanjit Kaur

.....Revisionist-Petitioner.

Versus

Smt. Parveen Mahal and others

.....Respondents.

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Amit Jain, Senior Advocate with
Mr. Kushagra Mahajan, Advocate
for the revisionist-petitioner.

Mr. Ashish Chopra, Senior Advocate with
Ms. Nitika Sharma, Advocate,
Mr. Vaibhav Sehgal, Advocate and
Mr. J.S. Johal, Advocate
for respondent No.1-Caveator.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the order passed by learned Civil Judge
(Junior Division), Ludhiana (for short 'the trial Court') on 11.01.2024 in
Civil Suit No.45762 of 2013 titled as '***Sharanjit Kaur versus Smt. Parveen
Mahal and others***' (here-in-after to be referred as 'the subsequent Suit'),
whereby the application (Annexure P-6) moved by the petitioner-plaintiff
(here-in-after to be referred as 'the plaintiff') under Section 10 CPC with
the prayer to stay the proceedings in the above-said Civil Suit, has been
dismissed, she (plaintiff) has chosen to prefer the instant revision-petition
to lay challenge to the same.

2. I have heard learned Senior counsel for the petitioner-plaintiff as well as learned Senior counsel for respondent No.1-Caveator in the present revision-petition, at the preliminary stage and have also perused the file carefully.

3. Learned Senior counsel for the plaintiff has contended that besides the afore-referred subsequent Suit, two more Civil Suits (here-in-after to be referred as 'the previous Suits') had been filed earlier regarding the same property, which is the subject-matter of the subsequent Suit and those previous Suits were adjudicated by the concerned trial Courts and the appeals arisen therefrom, had also been decided by the Lower Appellate Court and this Court and presently, the Special Leave Petitions (SLPs) filed against the judgments rendered in ***RSA Nos.3257 of 1987*** and ***351 of 1988***, are pending adjudication before Hon'ble the Supreme Court and the same substantial question/issue qua the nature of the suit property, i.e whether it is Joint Hindu Family Coparcenary Property, is involved in the above-said SLPs and the subsequent Suit and in these circumstances, the proceedings in the subsequent Suit, are liable to be stayed as envisaged under Section 10 CPC. He has placed reliance upon the judgment passed in ***Mana Versus Dalel, 1979 AIR (P&H) 39***, in support of his contentions.

4. Per contra, learned Senior counsel for respondent No.1-Caveator has argued that even if the suit property/subject-matter is identical in the afore-detailed litigation, even then the fact remains that the previous Suits and the subsequent Suit have arisen out of different causes of action and it being so, the provisions, as contained in Section 10 CPC, would not be applicable to the instant matter.

5. Annexures P-1 and P-2 are the copies of the judgments handed down by the Co-ordinate Bench on 02.05.2011 in **RSA No.3257 of 1987**, preferred by the plaintiff and **RSA No.351 of 1988**, filed by Amarjit Singh, the father-in-law of the plaintiff and though a perusal of the same reveals that the question/issue regarding the nature of the suit property, i.e its being the Joint Hindu Family Coparcenary Property, was involved in the previous Suits but however, a bare reading of Annexure P-3, i.e the copy of the Plaint of the subsequent Suit, shows that besides praying for a decree for declaration qua her ownership over the 3/4th share of the suit property, the plaintiff has also specifically sought the declaration to the effect that the Will, as allegedly executed by her father-in-law and Mutation No.11056 as sanctioned in favour of respondents-defendants No.1 to 5 and the gift-deeds and sale-deeds, executed by the above-said defendants in favour of Manjit Kaur and respondents-defendants No.6 to 12 and the gift-deed as executed by her father-in-law in favour of respondent-defendant No.13, were illegal, null and void.

6. It is worth-while to mention here that in para No.12 in Plaint Annexure P-3, the plaintiff has categorically averred that defendants No.1 to 5 had set-up a forged and fabricated Will in their favour. To add to it, Annexure P-5 is the copy of the judgment passed by the Co-ordinate Bench on 01.02.2023, allowing the revision-petition bearing **CR No.1078 of 2019**, as preferred by the plaintiff to lay challenge to the order passed by the trial Court on 05.12.2018, whereby the application, moved by her for seeking permission to take the photographs of the alleged Will for the purpose of examining the Hand-writing Expert as her witness, was dismissed. In view

of these facts, it becomes crystal clear that the subsequent Suit has been filed by the plaintiff, *inter-alia*, to assail the authenticity of the above-said Will, while alleging that it was a forged and fabricated document but as is explicit from the judgments Annexures P-1 and P-2, no issue, touching the legality and genuineness of the afore-mentioned Will, had been framed in the previous Suits. Moreover, respondents-defendants No.6 to 13 are the subsequent transferees/vendees by virtue of the gift-deeds and sale-deeds and no document has been placed on the file to show that they had been arrayed as party in the previous Suits also. All the above-discussed facts and circumstances unequivocally lead to the only irresistible conclusion to the effect that the causes of action, the parties as well as the substantial questions/issues involved in the previously filed Suits and the subsequent Suit, are not similar and hence, the provisions of Section 10 CPC would not be attracted in the instant matter.

7. To cap it all, the subsequent Suit has been filed by none else but the plaintiff herself and in para No.19 in its Plaint Annexure P-3, she has categorically averred that no suit between the same parties under whom they or any of them claim to be litigating and on the same grounds, had been previously instituted or finally decided in the Court of competent jurisdiction and only the Regular Second Appeals (RSAs) were pending. Meaning thereby that the plaintiff was well-aware of the pendency of the above-referred RSAs, at the time of filing the subsequent Suit but had, still, chosen to institute the same and therefore, it does not lie in her mouth to ask for staying the proceedings therein and that too, in the circumstances when it has specifically been mentioned by the trial Court in para No.11 in

the impugned order that despite hearing the arguments in detail on eight (08) dates, the same could not be concluded and thereafter, the plaintiff had moved the application, i.e Annexure P-6. The observations, as made by the Co-ordinate Bench in **Mana (supra)**, are of no avail to the plaintiff because in the afore-cited case, the subject matter and the parties in both the Suits were same whereas it is not so in the present case, as discussed earlier.

8. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any interference by this Court. Resultantly, the revision-petition in hand, being *sans* any merit, stands dismissed.

February 14, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes