



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

CR-937 of 2024 (O&M)

Decided on: 03.09.2024

Narinder Kapoor

...Petitioner

Versus

Gurnam Singh and Ors

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Namit Gautam, Advocate
for the petitioner.

RITU TAGORE, J.

1. This revision is directed against the common order dated 03.01.2024 (Annexure P-9) passed by Civil Judge (Jr. Division), Ludhiana, whereby applications (Annexures P-5 to P-7), filed by petitioner (plaintiff before the learned trial Court), for consolidation of Civil Suit No. 2264/2017 titled as 'Narinder Kapoor Vs. Gurnam Singh and others' (Annexure P-1); Civil Suit No. 2261/2017 titled as 'Narinder Kapoor Vs. Gurnam Singh and others' (Annexure P-3) and Civil Suit No. 2291/2017 titled as 'Narinder Kapoor Vs. Gurnam Singh and others' (Annexure P-4), with suit No. CS-2280/2017 titled as 'Narinder Kapoor Vs. Gurnam Singh and others' (Annexure P-2), have been dismissed.

2. Learned counsel for the petitioner submits that, petitioner instituted the aforementioned suits against respondents/defendants for separate possession by way of partition of the lands, bearing different



khewat Nos. 1776 in civil suit No.2264 of 2017; khewat No.1777 in civil suit No. 2261/2017; khewat No. 1775 in civil suit No. 2291 of 2017 and khewat No. 454 in civil suit 2280 of 2017, as detailed in the suits as well as for permanent injunction, restraining the respondents/defendants from alienating or making any addition/alteration or construction(s) over the suit land(s) until partitioned by metes and bounds.

3. Upon notice, respondents appeared in respective suits and filed their written statements. Thereafter, the learned trial Court framed issues in all the suits, separately. It is stated that three applications (Annexures P-5 to P-7) under Section 151 of the Code of Civil Procedure, 1908 (in brevity referred to as 'CPC') for consolidation of the above-mentioned suits were filed by the plaintiff. On the contest of the applications the learned trial Court dismissed the same, which has led to filing of the present revision.

4. Learned counsel urges that the learned trial Court failed to consider the applications in right perspective and passed the impugned order on surmises and conjectures. It is stated that in all the suits, parties are substantially the same. There is substantial and sufficient similarity of the issues in all the cases and one of the material issues is '*whether plaintiff is entitled to separate possession by way of partition of the suit property?*' The learned counsel submits that the common evidence is to be led by the parties on the issues framed. In view of the above, common questions of facts and law are involved in all the suits. The whole objection of consolidation of the suits is to avoid multiplicity of the proceedings, to prevent delay, avoid unnecessary costs and expenses and to avoid conflicting judgments.

5. Learned counsel states that the transfer application filed by petitioner was allowed vide order dated 18.11.2023 (Annexure P-10) and



all the cases were transferred to one Court. It is stated that the impugned order as passed by the learned trial Court dismissing the application to consolidate the suit is unsustainable in the eyes of law. A prayer is made to allow the application.

6. Keeping in view the prayer made in the present application and that issuing notices to the respondents would delay the proceedings before the Court, the service of the respondents is dispensed with at this stage.

7. It is a matter of record that the suits mentioned above are pending before the learned trial Court for adjudication. The learned trial Court while dismissing the applications (Annexure P-5 to P-7), passed the following order, which reads as follows: -

“After hearing the rival contentions of both the parties and perusing the record carefully, I am of the considered view that the instant application ought to be dismissed. Through instant application the applicant has sought the consolidation of cases. However, this court is of the opinion that the defendants in all the cases are not the same and number of defendants in all the cases are different and the defendants have to lead different evidence as per their pleadings. Thus, the contention of the applicant that parties in all the cases are the same and the controversy involved between the parties is same, is not sustainable. Further, for the abovesaid reasons and as the khewat numbers are different in all the cases, one consolidated judgment cannot be passed in all cases Further, all the cases are at different stage of trial and even in some files the evidence has partly led. In view of the abovesaid facts & circumstances, this Court is of the opinion that consolidation of cases will make the matter confusing and it is better to decide each case individually. Hence, no ground is made out to allow the present application and same dismissed accordingly. However, the plaintiff/defendants are at liberty to put the same evidence led in one case in the other case.”

8. The learned District Judge, Ludhiana, while allowing the application to transfer all the four above-mentioned suits in one Court, on no



objection recorded by the contesting respondents through their counsel, observed as under: -

“4. Perusal of the record shows that subject matter in all the cases is same. Therefore, in the interest of justice and to avoid any conflicting judgments, all the above said cases are required to be tried and disposed by one Court. Accordingly, the instant transfer application is hereby allowed and the cases mentioned above at Sr. Nos.1 to 4 are hereby withdrawn from the respective Courts and are transferred to the Court of Ms.Nirmala Devi, Ld. CJJD, Ludhiana for their disposal in accordance with law. Parties through their counsel are directed to appear before the transferee Court on date fixed. Copy of this order be sent to the Courts concerned for compliance. Records be returned. This file be consigned to the record room.”

9. For understanding the controversy in all the suits, it would be apposite to reproduce the issues framed in these cases, on which the parties are on trial. The issues read as under: -

A. Issues in CS-2264/2017 framed on 01.05.2023:-

- 1) Whether the plaintiff is entitled to relief of separate possession as prayed for? OPP.*
- 2) Whether the suit of plaintiff is entitled to relief of permanent injunction?OPD*
- 3) Whether the suit of plaintiff is not maintainable?OPD*
- 4) Whether the suit of plaintiff has not come to the court with clean hands and concealed facts? OPR.*
- 5) Whether the suit of plaintiff is bad for mis joinder and non-joinder of parties.? OPD*
- 6) Whether the suit of plaintiff is estopped by own act? OPD*
- 7) Whether the plaintiff has not locus standi to file the present case?OPD*
- 8) Whether the suit of plaintiff is not properly valued? OPD*
- 9) Whether the suit of plaintiff is barred by delay and laches? OPD*
- 10)Relief*

B. Issues in CS-2280/2017 framed on 22.07.2019:-

- 1) Whether the plaintiff is entitled for separate possession by*



way of partition as prayed for? OPP

2) Whether the plaintiff is entitled for permanent injunction as prayed for? OPP

3) Whether the plaintiff has not come to the Court with clean hands? OPD

4) Whether the suit is not maintainable in its present form? OPD

5)Relief.

C. Issues in CS-2261/2017 framed on 26.04.2023:-

1) Whether the plaintiff is entitled for separate possession by way of partition of the land described in the head note of the plaint as prayed for? OPP

2) Whether the plaintiff is entitled for permanent injunction with regard to construction as well as alienation of specific portion or khasra number by the defendants as prayed for? OPP

3) Whether the suit of the plaintiff is not maintainable? OPD

4) Whether the plaintiff has no locus-standi, no cause of action and has not come to the court with clean hands? OPD

5)Relief.

D. Issues in CS-2291/2017 framed on 21.05.2022:-

1) Whether the plaintiff is co-owner in the suit property, if so, to what extent? OPP

2) Whether the plaintiff is entitled to separate possession by way of partition of suit property? OPP

3) Whether the plaintiff is entitled to permanent injunction as prayed for? OPP

4) Whether the suit is not maintainable? OPD

5) Whether the suit is bad for misjoinder and non joinder of the parties? OPD

6) Whether the plaintiff has no locus standi to file the present suit? OPD

7) Whether the plaintiff has no cause of action to file the present suit? OPD

8) Whether the plaintiff has suppressed the material facts from the Court?OPD

9) Whether the plaintiff is estopped by his act and conduct from filing the present suit? OPD

10)Relief.



10. As noted, most of the issues are similar. The CPC does not specifically provide for consolidation of suits but same can be done under the inherent powers of the Court flowing from Section 151 CPC as may be necessary for the ends of justice or to prevent abuse of the process of the Court or where there is complete or substantial and sufficient similarities of issues arising for decision in the suits, enables the Court to consolidate the suits for trial and decision. The key objective of consolidating the suits is to avoid contradictory judgments, save time and prevent multiplicity of the proceedings. Further, the parties are relieved of the need to add the same or similar documentary or oral evidence twice over in the suits at different trials. This facilitates an early and effective disposal of the litigation in the given circumstances. However, the learned Court has discretion to order consolidation of the suits, depending on the specific factors or circumstances in the cases.

11. As noted above from the issues framed by the learned trial Court, in all the cases, they are substantially identical and would require the same documentary evidence i.e., pertaining to the revenue record related to the partition of the suit land. The other issues concerning the relief of injunction, the non-maintainability of the suit, as well as mis-joinder and non-joinder of the parties, are also similar. The learned District Judge also transferred all these cases for trial before one Court to avoid conflicting judgments.

12. In light of the above facts and circumstances, this Court is of the view that the learned trial Court erred in dismissing the application of consolidation of the cases. Accordingly, the order is set aside. Let the cases be consolidated by the learned trial Court by treating one case as a lead case



so that the evidence can be led in one suit as to the convenience of all the parties.

13. The Revision Petition is allowed in above terms.

14. Nonetheless, it is expected that the learned trial Court would make every endeavor to decide the suits pending before it promptly. Further, it is needless to mention that parties to the suits shall also assist the learned trial Court in expeditious disposal of the suits without seeking any undue adjournment(s).

15. It is suffice to note that deliberations made above were purely in the context of the matter and not on the merits of the suits pending before the learned trial Court.

16. Respondents if not satisfied with this order, may move an application for recalling of this order within 30 days from the receipt of certified copy of this order.

17. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

03.09.2024

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No