

2024:PHHC:141524



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

119-A

CR-1361-2024 (O&M)

Date of Decision : 28.10.2024

SUREKHA DHAND AND ANR

.... Petitioners

VERSUS

BINDIYA KALRA AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Aayush Gupta, Advocate for the petitioners.

Mr. N.K. Manchanda, Advocate for respondent No.1.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed challenging the order dated 11.01.2024 whereby the application filed by the petitioners herein under Section 10 CPC read with Section 151 CPC was dismissed.

2. Learned counsel for the petitioners would contend that the suit (Annexure P-5) filed by the petitioners herein for declaration to the effect that the plaintiffs are co-owners in joint possession to the extent of 1/3rd share each as well as separate possession by way of partition by metes and bounds and for rendition of account was filed on 19.11.2022 between the same parties whereas the suit (Annexure P-1) by respondent No.1 herein was filed subsequently on 12.04.2023 between the same parties and hence the application under Section 10 CPC ought to have been allowed. It is further the contention that the issues involved in the present case are the same and the suit filed by the petitioners herein is at the stage of evidence of the

defendant and hence the proceedings in the suit (Annexure P-1) filed by respondent No.1 herein ought to have been stayed till the decision of the suit (Annexure P-5) filed by the petitioners herein.

3. Per contra, learned counsel for respondent No.1 would contend that though the parties to the suit are same, however, in the suit (Annexure P-1) filed by respondent No.1, the respondents herein have propounded two Wills in their favour which are not the subject matter of the suit (Annexure P-5) filed by the petitioners herein. It is further the contention that in the suit instituted by the petitioners herein there is no issue regarding the Will.

4. In response, learned counsel for the petitioners is not in a position to deny the fact that no issue has been framed qua the Wills which have been propounded in the suit (Annexure P-1) filed by respondent No.1.

5. Heard.

6. In the present case the application under Section 10 CPC read with Section 151 CPC for stay of proceedings in the suit (Annexure P-1) has been dismissed vide the impugned order dated 11.01.2024. Admittedly, though the suits are between the same parties, however, in the suit (Annexure P-1) filed by respondent No.1 herein, two Wills have been propounded which are not the subject matter of the suit (Annexure P-5) filed by the petitioners. In view of the fact that the subject matter of the suits is not identical, there would be no ground for staying the proceedings of the subsequent suit on an application under Section 10 CPC read with Section 151 CPC.

7. In view of the above, I do not find any merit in the present revision petition. The present revision petition, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

28.10.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No