

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

113

CR-1542-2024 (O&amp;M)

Date of decision:26.04.2024

Rakesh Kumar

... Petitioner

Vs.

Suresh Kumar

... Respondent

**CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Gaurav Mohunta, Advocate for the petitioner.

...

**SUKHVINDER KAUR, J.**

1. The instant revision petition has been filed under Article 227 of the Constitution of India seeking issuance of a direction to the Civil Judge (Sr. Division), Gurugram to conclude and decide Civil Suit No.2697 of 2016 titled as 'Rakesh Kumar Vs. Suresh Kumar' pending before it in a time bound manner.

2. Brief facts that are required for disposal of the instant revision petition as per revision petitioner are that the plaintiff filed a Civil Suit bearing No.2697 of 2016 titled as 'Rakesh Kumar Vs. Suresh Kumar' on 09.12.2016 for possession by way of partition, mandatory injunction, settlement/rendition of accounts between the parties and in the alternative for decree of recovery of an amount of Rs.1,37,44,430.20/- allegedly paid by the petitioner towards sale consideration and loan servicing to the bank on behalf of the respondent.

3. The said suit was contested by the respondent by filing written statement on 25.01.2017. On 27.02.2017 issues were framed and the case

was adjourned to 23.03.2017 for plaintiff's evidence. On 02.05.2017, plaintiff examined in chief two witnesses and their cross-examination was deferred to 11.07.2017 on request of the respondent. On 11.02.2017, the aforesaid witnesses of the plaintiff were present for their cross-examination. But with the sole intention to delay the trial, respondent moved an application under Order 7 Rule 11 CPC for rejection of the plaint and case was adjourned to 10.08.2017 for filing of reply to the same. On the said date, reply to the aforesaid application was filed and case was adjourned to 18.09.2017 for arguments. But even after so many adjournments arguments were not addressed on the said application. Ultimately, after a gap of about 6 years on 12.04.2023, the arguments were addressed and the application filed by the respondent Under Order 7 Rule 11 CPC was dismissed and thereafter the case was adjourned to 06.07.2023 for cross-examination of PW1 and PW2 and for remaining plaintiff's evidence. Then again, with the sole purpose of delay, the respondent moved an application under Order 6 Rule 17 CPC for amendment of the written statement which was filed way back on 25.01.2017, reply to which was filed by the petitioner on 08.09.2023 and after that case was adjourned for various dates and now the said application is pending for arguments on 16.04.2024.

4. It was alleged that the present civil suit was filed by the petitioner in the year 2016 but even after lapse of 7 years, it is still at the initial stage i.e. for cross-examination of PW1 and PW2 and by abusing the process of the Court, the respondent has succeeded in delaying the trial for 7 years which has caused great injustice and prejudice to the petitioner.

5. In view of the sequel of events canvassed above, it was prayed

that the trial Court be directed to decide the present suit in a time bound manner.

6. Vide order dated 18.03.2024 passed by this Court, a status report was called from the trial Court along with the reasons for delay.

7. In compliance of the said order, a status report has been received from the trial Court and it has been alleged therein that the suit was instituted on 09.12.2016 and service was completed on 25.01.2017 and on that date, defendant filed his written statement. The issues were framed on 27.02.2017. Then the case remained fixed for plaintiff's evidence from 23.03.2017 to 11.07.2017. Then on 11.07.2017, an application under Order 7 Rule 11 CPC was filed which was decided by the trial Court vide order dated 12.04.2023 and then the case was adjourned to 06.07.2023 for cross-examination of PW1 and PW2. On 06.07.2023, an application under Order 7 Rule 11 CPC was filed by the defendant and the matter was adjourned for filing of reply to the same for 22.08.2023 and 08.09.2023. On 08.09.2023, reply to the said application was filed and the matter was adjourned to 04.12.2023 for arguments. After hearing arguments on 19.04.2023, the said application was decided and the matter was fixed for 26.04.2024 for filing of amended written statement.

8. Thus, it is made out from the status report that the suit was instituted before the trial Court on 09.12.2016, which is still pending for filing of amended written statement. The application under Order 7 Rule 11 CPC which had been filed on 11.07.2017 had been disposed of only on 12.04.2023 after a very long delay.

9. So, keeping in view the above, the trial Court is directed to

