



CR-2966-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of decision:15.05.2024

Nirmal Singh & others

... Petitioners

Vs.

Raj Kumar Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. J.S. Cooner, Advocate for the petitioners.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed against the order dated 18.04.2024 (Annexure P-1) passed by the Civil Judge (Sr. Division), Ambala, whereby application filed by the petitioners under Section 10 CPC was dismissed.

2. The brief facts leading to filing of the present revision petition are that respondent No.1/plaintiff filed a suit for declaration to the effect that plaintiff is owner of 1/3rd share of total land measuring 9 bighas 2 biswas comprised in khewat/khatauni No.62/65, khasra No.78/2 (1-5), 91/2 (1-12), 93 (1-10), 94 (4-0) situated within revenue estate of village Saddopur, HB No.32, Tehsil and District Ambala and Blood Relation Transfer Deed No.3794/1 registered on 28.09.2016 executed by Gurbax Singh in favour of defendant No.1 and mutation No.671 registered on the basis thereof and sale deed dated 27.01.2023 executed by defendant No.1 in favour of defendant

No.5 and mutation No.750 sanctioned on the basis of sale deed are illegal,



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null and void and not binding on the rights of the plaintiff and are liable to be set aside and further relief of joint possession of 1/3rd share and with consequential relief of permanent injunction was also sought.

3. Petitioners/defendants No.1 & 2 filed their written statement taking various pleas regarding maintainability of the suit, suit being time barred and hit by Section 10 CPC as the similar suit regarding the same land titled as 'Jaspal Singh Vs. Krishan Kumar & others' was already pending and the plaintiff himself is contesting that suit.

4. Thereafter, on 30.01.2024, petitioners/defendants No.1 & 2 filed an application under Section 10 CPC for staying the present suit on the ground that another suit titled as 'Jaspal Singh Vs. Krishan Kumar & others' with regard to the same land was already pending which was being contested by the present plaintiff as defendant No.2 in the said case. The trial Court vide the impugned order dated 18.04.2024 dismissed the said application filed by the petitioners/defendants No.1 & 2 under Section 10 CPC. Hence, aggrieved against the said order, the petitioners/defendants No.1 & 2 have knocked the doors of this Court by way of filing the present revision petition.

5. Learned counsel for the petitioners has contended that while passing the impugned order, it has not been considered by the trial Court that another suit titled as 'Jaspal Singh Vs. Krishan Kumar & others' bearing Civil Suit No.698 of 2019 with regard to the same land is already pending before the Civil Court and the Blood Relation Transfer Deed dated 28.09.2016 executed by Gurbax Singh and Mutation No.671 dated 13.10.2016 are already under challenge being not binding on the rights, title or interest of the plaintiff as the land in question was ancestral coparcenary



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property in the hands of deceased Gurbax Singh. He has further contended that Civil Suit No.698 of 2019 titled as 'Jaspal Singh Vs. Krishan Kumar & others' is pertaining to the same suit property and the present plaintiff – Raj Kumar Singh has been impleaded as defendant No.2 in the said case. He has argued that the trial Court has not considered that from comparison of the present plaint dated 22.01.2024 and plaint dated 02.04.2019 of earlier suit, it is amply clear that suit property in both the suits are same and Blood Relation Transfer Deed dated 28.09.2016 is under challenge on the ground that land in question was ancestral and coparcenary property in the hands of deceased/Gurbax Singh.

6. I have heard learned counsel for the petitioners at length and have perused the records thoroughly.

7. From the perusal of the of copy of the plaint in civil suit No.698 of 2019 titled as 'Jaspal Singh Vs. Krishan Kumar & others', it is revealed that in that suit plaintiff has challenged the Blood Relation Transfer Deed bearing No.3794 dated 28.09.2016 and Mutation No.671 dated 13.10.2016 on the ground of fraud and incapacity of parties to execute the impugned Blood Relation Transfer Deed.

8. Whereas in the present suit, the plaintiff has challenged the Blood Relation Transfer Deed No.3794, Mutation No.671 as well as Sale deed No.4047/1 registered in the office of the Sub Registrar, Ambala on 27.01.2023 and mutation No.750 sanctioned in favour of defendant No.5 on the basis of aforesaid sale deed on the ground that the suit property was ancestral in the hands of Gurbax Singh. So Blood Relation Deed could not have been executed by Gurbax Singh. In the earlier suit, plaintiff – Raj

Kumar Singh has been arrayed as defendant No.2, whereas in the present



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suit, he is the plaintiff. The trial Court has thus rightly held that the parties are not litigating under the same title. The instant suit is for possession of the suit property whereas in the previously instituted suit, Jaspal Singh had claimed joint possession of the suit property.

9. It is useful here to reproduce Section 10 CPC, which reads in the following terms:

“No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court.”

10. The instant case has been filed by plaintiff – Raj Kumar Singh, while seeking possession of suit property, which may be the subject matter of the previously instituted suit but the present suit has been filed completely on the basis of different cause of action. In the earlier suit, plaintiff – Jaspal Singh has challenged Blood Relation Transfer Deed on the ground of fraud, but in the instant suit, it has been averred that the nature of the property in hands of Gurbax Singh being ancestral coparcenary property, he could not have executed the Blood Relation Transfer Deed in respect of the said property. So the trial Court has rightly reached at the conclusion that the present suit is not barred in view of the provisions of Section 10 CPC.

11. Thus, there being no illegality or infirmity in the impugned order, no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands



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12. All pending applications, if any, also stand disposed of accordingly.

**(SUKHVINDER KAUR)
JUDGE**

15.05.2024

harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |