



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Revision No. 3643 of 2024 (O&M)
Date of Decision: 03.07.2024

Ajaib Singh
..... Petitioner

Versus

Balbir Singh and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Yadvinder Singh Turka, Advocate
for the petitioner-defendant No. 1.

HARKESH MANUJA, J. (ORAL)

The petitioner-defendant No. 1, by way of present revision petition, seeks setting aside of the order dated 10.10.2023 (Annexure P-9) passed by learned Civil Judge (Junior Division), SAS Nagar/Mohali (hereinafter to be referred as “trial Court”), in *Civil Suit No. 334 of 2021*, titled “*Balbir Singh Versus Ajaib Singh & Ors.*” (hereinafter to be called as “First Suit”), whereby an application under Section 10 of the Code Civil Procedure, filed at the instance of petitioner-defendant No.1, for seeking stay of the proceedings of First Suit for separate possession by way of partition, filed at the instance of respondent-plaintiff, stands dismissed.

[2] Briefly stating, respondent-plaintiff No. 1 first filed a suit for separate possession by way of partition, claiming 1/12th share in land comprised in Kh/Kh No. 342/331/364 bearing Khasra No. 250 (0-5),

situated within the area of Village Mataur, H.No. 7, Tehsil & District SAS Nagar as per jamabandi for the year 2013-14, besides claiming a decree for grant of permanent injunction restraining the defendants from raising construction or alienating the same in any manner. The aforesaid said / First Suit was filed on 22.04.2021, the petitioner (Ajaib Singh) been arrayed as defendant No. 1 therein. Later in 2022, the petitioner filed a subsequent suit bearing ***Civil Suit No. 66 of 2022***, titled ***“Ajaib Singh Versus Balbir Kaur and others”*** (hereinafter to be called as **“Second Suit”**) for challenging the mutation entries *qua* the suit property and also claimed decree for permanent injunction for restraining the defendants therein from interfering in his possession. Thereafter, an application under Section 10 of the Code of Civil Procedure was moved by the petitioner, seeking stay of proceedings in the First Suit filed at the instance of respondent No. 1-plaintiff (Balbir Singh).

[3] The prayer made on behalf of petitioner-defendant No. 1 in the aforesaid application was contested by the plaintiff-respondent No. 1 herein and the trial Court vide its order dated 10.10.2023 (P-9) dismissed the same. Hence, the present revision petition.

[4] Impugning the aforesaid order dated 10.10.2023 (P-9) passed by the trial Court, learned counsel for the petitioner submits that once, the mutation entries on the basis of which the First Suit was filed for separate possession by way of partition filed at the instance of respondent No. 1-plaintiff, itself were under challenge in the Second Suit for declaration, no decree could be granted in favour of respondent No. 1-

plaintiff in the First Suit and thus, there was no purpose of continuation of proceedings therein.

[5] No other argument has been raised on behalf of the petitioner.

[6] After hearing learned counsel for the petitioner and gone through the paper-book, I am unable to find substance in the submissions made on behalf of petitioner.

[7] The present revision petition is wholly misconceived. The First Suit filed on behalf of respondent No. 1-plaintiff being for separate possession on the basis of partition, would naturally entail an adjudication by the trial Court *qua* the share of respondent No. 1-plaintiff (Balbir Singh) in the suit land. Unless any such declaration was granted by way of preliminary decree, no final partition could be ordered by the Court. Thus, as a natural consequence, the trial Court was enjoined to adjudicate and declare the rights / entitlement / share of the parties in the First Suit and in such circumstances, Second Suit for declaration and permanent injunction, filed by the petitioner-defendant No. 1 (Ajaib Singh), at best, was merely a ploy to delay the proceedings in the First Suit for separate possession by way of partition filed at the instance of respondent No.1-plaintiff.

[8] In view of the discussion made hereinabove and in the given facts and circumstances, no illegality or perversity can be found with the reasoning recorded by the trial Court vide, while passing the impugned order dated 10.10.2023 (P-9), there being no cause available to petitioner-

defendant No. 1 for seeking stay of the proceedings in the First Suit.

[9] Accordingly, finding no merit in the present revision petition, the same is hereby **dismissed**.

July 03, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No