



TA-1396-2022 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.103

TA-1396-2022 (O&M)

Date of Decision: 19.09.2024

GAGANDEEP @ GAGANDEEP SINGH

....Applicant

Versus

HARKIRTAN SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Nitin Sachdeva, Advocate
for the applicant.

Mr. Nitesh Singla, Advocate
for the respondent.

ARCHANA PURI, J. (Oral)

The applicant-wife has filed the present application for seeking transfer of the suit for recovery i.e. CS/500/2020, titled '*Harkirtan Singh Vs. Gagandeep Singh*', filed by the respondent, pending in the Court of Civil Judge (Junior Division), Phillaur and he seeks transfer of the same to the Court of competent jurisdiction at Ludhiana, where two other cases, relating to the same transaction are allegedly pending.



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In pursuance of the notice issued, respondent made appearance through counsel and filed reply.

Learned counsel for the parties heard.

At the very outset, the counsel for the applicant has submitted that an agreement to sell was executed between the parties to the lis on 27.10.2018, with regard to the transaction of sale of the suit property, for an amount of Rs.20,50,000/-. An amount of Rs.2,00,000/- was paid as earnest money. However, the dispute arose with regard to the non-execution of the sale deed, as a result whereof, the suit for specific performance i.e. CS/1989/2020, was filed at the first instance by the applicant, which is pending in the Courts at Ludhiana. Copy of the said plaint is Annexure P-1.

Also, it is submitted by the counsel for the applicant that the respondent (who is defendant in the previous suit), had filed a suit for declaration i.e. CS/3217/2020, qua the same transaction at Ludhiana, thereby challenging the legality and validity of the agreement to sell dated 27.10.2018, which formed the basis of the aforesaid suit. The said suit was also filed in the Courts at Ludhiana. A copy of the said plaint is Annexure P-4. The earlier suit was filed by the applicant on 24.06.2020 and after a period of one month, from filing of the said suit, the subsequent suit was filed by the respondent on 23.07.2020. However, on the very next date i.e. 24.07.2020, the respondent filed a suit under Order 37 of the CPC, i.e. CS/500/2020, for recovery of Rs.2,00,000/-, which was paid as earnest money. Copy of the said plaint is Annexure P-5. The said suit was filed at Phillaur. It is now this suit, which is sought to be transferred to the Courts at Ludhiana.



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However, the counsel for the respondent, has refuted the claim of the applicant. While making reference to the reply and Annexure R-1, the counsel for the respondent submits that the suit i.e. CS/500/2020, which is pending at Phillaur, was filed on 24.07.2020. The applicant did not bother to seek transfer of the said suit and it had now reached the stage of PWs and only thereafter, the application was filed. No reason, as such, is assigned for not moving any application for transfer of the said suit earlier.

On query by the Court, it is disclosed by the counsel for the applicant that the first suit i.e. CS/1989/2020, is at the stage of evidence of the applicant/plaintiff and the second suit i.e. CS/3217/2020, is also pending at the stage of evidence of the respondent/plaintiff. The third suit i.e. CS/500/2020, which is pending in the Courts at Phillaur, is also at the stage of plaintiff evidence.

On further query by the Court, it is disclosed by the counsel for the applicant that CS/1989/2020 and CS/3217/2020, are pending in two different Courts in Ludhiana.

However, perusal of the complaints of all the three suits reveals that same relate to the one transaction qua sale of the suit property. Therefore, to avoid passing of contradictory judgments, it is appropriate that all the three suit should be decided by one Court only. In the given circumstances, the application is allowed and the suit i.e. CS/500/2020, titled '*Harkirtan Singh Vs. Gagandeep Singh*', filed by the respondent, stands transferred from the Courts at Phillaur, to the Ludhiana Courts. The requisite record of the aforesaid case be sent by the the Court concerned, to the District and Sessions Judge, Ludhiana.



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Since, the civil suits i.e. CS/1989/2020 and CS/3217/2020, are pending in different Courts at Ludhiana, it would be appropriate if all the three suits are proceeded simultaneously and decided by one and the same Court.

Considering the same, Learned District and Sessions Judge, Ludhiana, is hereby requested to look into this aspect and assign all the three cases to one Court. The parties are directed to appear before learned District and Sessions Judge, Ludhiana, within a period of one month from today onwards.

19.09.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No