

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

116

2024:PHHC:050989

CR-3912-2014
Date of decision: 16.04.2024

VINITA ALIAS VINNI ..Petitioner

Versus

NINAD SHARMA AND ANR. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Balwinder Singh, Advocate
for the petitioner.

Mr. Rajesh Punj, Advocate
and Mr. Rekha Luhach, Advocate
for respondent No.1.

Mr. Kuldeep, Advocate
for respondent No.2.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, the petitioner assails the correctness of a composite order passed by the trial Court on 24.03.2014.
2. An application was filed for rejection of the plaint as well as for staying of the suit.
3. In this revision petition, the challenge is to the correctness of order passed by the trial Court staying the suit. In fact, two civil suits are pending, one at Jaipur, whereas, second at Gurugram. The real dispute appears to be in between the plaintiff-wife and her husband, who is defendant No.1.
4. In the civil suit filed at Gurugram, defendant No.2 M/s Yashwant Packaging Pvt. Ltd. is not party to the suit at Jaipur. It has also been stated that the suit property in a pending suit at Jaipur is different from the property involved in the civil suit filed at Gurugram. As per Section 10

if the matter in issue is directly and substantially in issue in a previous institute suit litigating between the same parties or between the parties under whom they or any of them claim litigating under the same title.

5. A perusal of the impugned order shows that the Court has primarily discussed the prayer made to reject the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908. While concluding, the Court has also directed that there shall be stay of the suit at Gurugram. There is no discussion as to how in subsequent suit filed at Gurugram, the property and the parties are identical.

6. The learned counsel representing the respondent submits that this Court should discuss the judgment passed by this Court in **Gurdit Singh and others Vs. Amrit Pal, 2011(1) PLR 528**. On its careful perusal, it is evident that the Court examined the distinction between the expression ‘strictly and substantially in issue’ and ‘incidentally and collaterally in issue’. The facts in **Gurdit Singh’s case (supra)** and the present case are different.

7. The subject matter was same in **Gurdit Singh’s case (supra)**, which is extracted as under:-

“Merely because in all the suits, sale deeds are different will not make the subject matter different.”

8. In the present case, the property and the parties are not identical

9. Keeping in view the aforesaid discussion, part of order dated 24.03.2014, staying the subsequent suit is set aside.

10. With these observations, the present petition is partly allowed.

11. All the pending miscellaneous applications, if any, are also disposed of.

April 16th, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No