

2024:PHHC:020870

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.6853 of 2023 (O&M)

Date of Decision: 14.02.2024

Smt. Santosh Rathee

...Revisionist-Petitioner

Versus

Krishna Kumari and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Ankur Dua, Advocate
for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J.

By filing the instant revision-petition under Article 227 of the Constitution of India read with Section 115 of CPC, the petitioner has laid challenge to the order passed by learned Civil Judge (Junior Division), Rohtak (for short 'the trial Court') on 07.10.2023 in ***Civil Suit No.59 of 2020*** titled as '***Santosh Rathee Vs. Krishna Kumari and others***' (for short 'the subsequent Suit'), whereby the application (Annexure P-4), as moved by her for seeking the consolidation of the above-said subsequent Suit with ***Civil Suit No.75 of 2017*** titled as '***Krishna Kumari versus Smt. Santosh Rathee and others***' (for short 'the previous Suit'), has been dismissed.

2. I have heard learned counsel for the petitioner in the present revision-petition, at the preliminary stage and have also gone through the file carefully.

3. Learned counsel for the petitioner has contended that the property involved in both the afore-said Suits is the same and therefore,

these Suits should have been consolidated so as to avoid contradictory decisions therein but vide the impugned order, the trial Court has wrongly dismissed the above-said application (Annexure P-4) filed by the petitioner for this purpose and hence, it is explicit that the said order is not legally sustainable and deserves to be set-aside. To buttress his contentions, he has relied upon the judgment rendered by the Apex Court in **M/s. Chitivalasa Jute Mills vs. M/s Jaypee Rewa Cement 2004(2) RCR (Civil) 108.**

4. However, the afore-raised contention is devoid of any force because the petitioner has filed the subsequent Suit for seeking a decree for declaration to the effect that the judgment and decree passed in Civil Suit No.828/2006/2008 and the acts done/orders passed on the basis thereof, are illegal, null and void and also praying for consequential relief of permanent injunction but the previous Suit has been filed by respondent No.1 against the petitioner and respondents No.3 & 6, for claiming the possession of the suit property. A perusal of Annexures P-1 & P-3, the copies of the Plaints in both the above-said Suits, reveals that though the property in dispute therein, is identical but besides the plaintiffs and the defendants as arrayed in the previous Suit, certain more persons have been sued as the defendants in the subsequent Suit, meaning thereby that the parties are not exactly the same in these Suits. To add to it, the trial Court has specifically mentioned in para No.5 in the impugned order that the previous Suit has reached at the stage of rebuttal evidence but the subsequent Suit is still at the preliminary stage of filing of the pleadings. In such circumstances, the consolidation of the Suits would result in *de-novo* trial in the previous Suit and to cap it all, the additional defendants in the subsequent Suit may lead their evidence which may be different from the evidence, as led in the previous Suit.

5. The observations, as made by Hon'ble Supreme Court in M/s. Chitivalasa Jute Mills (supra), are of no avail to the petitioner as the facts and circumstances of the afore-cited case are distinguishable from those of the present one because in the above-referred case, one Civil Suit had been filed at Visakhapatnam and the second Suit had been filed at Rewa and the petitioner had moved an application under Section 25 CPC for seeking the transfer of the Suit at Rewa to some Competent Court at Visakhapatnam and while allowing the same, the Apex Court had observed that in view of the transfer, the aspect of the case that the part evidence had been recorded by the Rewa Court and there was a controversy whether the defendant in the said Court adduced all its evidence or the evidence had been closed and the right of adducing further evidence needed to be restored, loses all its significance but in the instant case, there is no request for transfer of any of the Civil Suits from one place to some other place and rather, as discussed earlier, the previous Suit has reached the stage of leading rebuttal evidence, i.e the final stage and in the subsequent one, even the submission of the pleadings has not yet been completed.

6. In view of the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court and it being so, the revision-petition in hand, being *sans* any merit, deserves dismissal. Resultantly, the same stands dismissed accordingly.

14.02.2024
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No