



**109 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-1299-2025

Date of Decision: 07.03.2025

Vir Singh

...Petitioner

Versus

Bhagwanti Devi and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Rahul Yadav, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL).

The present revision is directed against the order dated 09.12.2024 (Annexure P-6) passed by the Court of learned Civil Judge (Junior Division), Kosli vide which the application filed by the present petitioner under Section 10 of the Code of Civil Procedure, 1908 (for short 'CPC') for stay of the subsequent suit (Annexure P-3) was dismissed.

2. The facts, as emanating from the revision petition, are that the petitioner-plaintiff (Vir Singh) filed a suit (Annexure P-1) for declaration that he was the exclusive owner in possession of the property comprised in Khasra No.408 situated in Village Guriyani, Tehsil Kosli, District Rewari (fully described in the plaint) (hereinafter referred to as the 'suit property').

3. The suit was opposed by the defendants. Written statement of defendant No.8 has been placed on record. Another suit for partition of the suit property was filed by respondent No.1 Bhagwanti Devi against the present petitioner and two others namely Saroj and Dinesh. An application under Section 10 CPC (Annexure P-4) was filed by the petitioner claiming stay of the subsequent suit, which was opposed by way of a reply (Annexure

P-5). The said application has been dismissed by way of the impugned order, leading to the filing of the present revision petition.

4. I have heard learned counsel for the petitioner.

5. Learned counsel for the petitioner submits that the impugned order is not sustainable. He submits that in case, the petitioner is declared to be the owner of the suit property, there would no useful purpose served by continuing with the suit for partition.

6. I have considered the submissions made by learned counsel for the petitioner.

7. The trial Court duly noticed that earlier also, the petitioner had filed a Civil Suit bearing No.5 of 2021 apart from some other suits which are mentioned in the impugned order. As regards the application under Section 10 CPC, it was observed that the suit instituted by the petitioner was for declaration whereas the subsequent suit was for partition. The core issue in both cases was different. The acid test, as laid down by a Co-ordinate Bench of this Court in the case of '**Rajinder Aggarwal and Another Vs. M/s K.R. Finmark Pvt. Ltd.**' (CR No.5706 of 2018, decided on 19.03.2019), to determine as to whether a subsequent suit is liable to be stayed in terms of the provisions of Section 10 CPC is as to whether the findings in the first suit would operate as *res judicata* in the second suit meaning thereby that the matter directly and substantially in issue in the first suit is also a matter directly and substantially in issue in the second suit.

8. A perusal of both suits (Annexure P-1 and Annexure P-3) shows that the matter in issue is different though the property is same. Further, parties are also different. In the considered opinion of this Court, the Court concerned may try to decide the suits together by fixing both suits on the same day or on dates near to each other but, in the considered opinion of

this Court, the pendency of the first suit (Annexure P-1) does not call for stay of the subsequent suit (Annexure P-3).

In view of the aforementioned facts and circumstances, I do not find any merit in the present revision petition and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

07.03.2025
Prince Chawla

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