

2025:PHHC:105712



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

**CR-3744-2023 (O&M)**  
**Decided on:-13.08.2025**

Devender Singh

....Petitioner..

VS.

Krishanjeet Singh and others

....Respondents.

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Ajay Jain, Advocate,  
for the petitioner.

Mr. Rose Gupta, Advocate,  
Mr. Prateek Garg, Advocate and  
Ms. Anita Kumari, Advocate,  
for respondent No.1.

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**HARKESH MANUJA J. (Oral)**

**CM-17335-CII-2023**

The application for preponing the date of hearing is dismissed  
as having been rendered infructuous.

**Main case**

1. By way of present revision petition, challenge has been laid to  
an order dated 31.03.2023 passed by the learned Civil Judge (Junior  
Division), Hisar, whereby, though separate applications under Section 10 of  
the Code of Civil Procedure, preferred at the instance of petitioner and  
respondent No.2 (defendants No.1 & 2), respectively, for stay of  
proceedings in Civil Suit No.530-2021, titled as "*Krishanjeet Singh vs.*

*Devender Singh etc.*” were principally accepted, however, respondent No.1-plaintiff was granted liberty to proceed further with the suit regarding the relief of arrears of rent proportionately to his share from the alleged sub-tenants.

2. Briefly stating, in the present case, previously respondent No.1 filed a suit for partition by way of metes and bounds and delivery of possession of 1/3rd share of the subject property-building constructed upon plot No. 208, Scheme No.3 of Improvement Trust, Auto Market Barwala Road, Hisar against the petitioner-Devender Singh as well as his another brother, namely Vijay (respondent No.2). In the said suit, the defence set-up on behalf of petitioner and respondent No.2 was to the effect that the subject property was rented out by the petitioner as well as respondent No.1 in favour of their brother respondent No.2-Vijay vide rent deed dated 22.11.2010. Even a specific issue No.9-A was also framed with respect to the validity of the said rent deed. The Trial Court vide judgment and decree dated 08.02.2019 though dismissed the previous suit filed at the instance of respondent No.1, however, went on to record that the petitioner herein and respondent No.2(Vijay) failed to prove the validity of rent deed dated 22.11.2010. Aggrieved of the judgment and decree dated 08.02.2019, first appeal was preferred at the instance of respondent No.1, whereas, the findings regarding rent deed was assailed in cross-objections by the other-side including the petitioner herein and the same are pending adjudication for 01.09.2025.

3. During pendency of the first appeal, respondent No.1 being plaintiff filed subsequent suit for declaration assailing the validity of rent deed dated 22.11.2010, besides claiming arrears of rent in the subject

property from the sub-tenants inducted at the instance of petitioner as well as Vijay; proportionate to his 1/3rd share. In the subsequent suit, the petitioner herein, who happened to be defendant No.2 in the previous suit and Vijay moved separate applications under Section 10 CPC with a prayer for stay of proceedings on the ground that the validity of rent deed dated 22.11.2010 was already under challenge before the First Appellate Court arising out of the first suit, as such, proceedings in the subsequent suit were required to be stayed. Those applications were opposed at the hands of respondent No.1-plaintiff, however, learned trial Court vide order dated 31.03.2023 disposed of the same with the following observation:-

*“The former suit for partition filed on behalf of the plaintiff was also dismissed by the Court vide aforesaid judgment. It is the case of the defendants that while the plaintiff has filed an appeal against the aforesaid judgment, defendant No. 2 has also filed cross objections in the aforesaid appeal against the findings recorded by the trial court on issue No. 9A in respect of rent note dated 22/11/2010. While the Ld. Appellate Court was still seized of the aforesaid matter, the plaintiff filed the present suit assailing the validity of the aforesaid rent note dated 22/11/2010 before the Court. This Court finds merit in the aforesaid argument advanced on behalf of Ld. counsel for defendant No. 2. When the issue of validity or otherwise of rent note dated 22/11/2010 is already pending disposal before the Ld. Appellate Court, the same cannot be allowed to be agitated before this Court. The matters in issue in the present suit as well as the former suit qua the cause of action pertaining to validity of the rent note dated 22/11/2010 are common and hence, in light of the provision contained under Section 10 of CPC this Court cannot proceed with the aforesaid issue, when the Ld. Appellate Court is already seized of the same.*

*(6) However, that does not mean that the Court cannot proceed with the present case in toto. The plaintiff apart from challenging*

*the rent note dated 22/11/2010 has also prayed that rent proportionate to his share in the property i.e. 1/3rd share, being received by defendant No. 1 from defendant No. 3 to 10 be paid to him or be deposited in the Treasury, Hisar or the Court. This Court is of the view that the aforesaid matter pertaining to entitlement of the plaintiff to receive proportionate rent from the sub tenants to whom the property has been subleased by defendant No. 1, is not within the purview of the Ld. Appellate Court and hence, this Court can proceed with the aforesaid matter. The interim relief sought by the plaintiff is also on the aforesaid aspect. In these circumstances, there is no hindrance before this Court in proceeding with the trial of the present case on the aforesaid aspect.*

*(7) In light of the aforesaid discussion, the present application stands disposed of with a direction that proceedings with regard to validity of rent note dated 22/11/2010 shall remain stayed during the pendency of the appeal pending before the Ld. First Appellate Court. However, proceedings with regard to the issue as to whether the plaintiff is entitled to receive his proportionate share in the rent from the sub tenants, to whom the property has been subleased by defendant No.1 shall continue as the aforesaid aspect is not pending adjudication before the learned Appellate Court.”*

4. Impugning the aforementioned order, learned counsel for the petitioner submits that once the Trial Court in the first suit recorded finding with respect to the validity of the rent deed dated 22.11.2010 and the same was in issue in the appeal arising out of the same, the proceedings in the subsequent suit could not have been permitted to be continued for the purposes of arrears of rent *qua* the proportionate share of respondent No.1-plaintiff.

5. On the other hand, learned counsel appearing on behalf of

respondent No.1 submits that no illegality or perversity can be found in the order passed by the Trial Court as the arrears of rent from the sub-tenants to the extent of 1/3rd share undisputedly owned by respondent No.1 was never in issue and thus, the suit was rightly permitted to be proceeded further to the said extent by the Trial Court.

6. I have heard learned counsel for the parties and gone through the paper book.

7. A perusal of record shows that the validity of the rent deed dated 22.11.2010 is specifically and categorically in issue before the First Appellate Court arising out of judgment and decree dated 08.02.2019 passed in the previous suit, wherein, issue No.9-A has been specifically formulated so as to adjudicate thereupon. Once the issue with respect to the validity of the rent deed dated 22.11.2010 is pending sub-judice before the First Appellate Court, the subsequent suit filed at the instance of respondent No.1 for agitating the same plea *qua* based on the genuineness of rent deed dated 22.11.2010 was liable to be stayed in terms of Section 10 of the CPC in order to avoid conflicting findings by the Courts on the same factual and legal aspects. It may also be pointed out here that the observations made by the learned Trial Court to the extent that the suit preferred at the instance of respondent No.1 with respect to his proportionate share of rent from the sub-tenants *qua* the subject property being maintainable, were beyond law; at this stage, there being no existence of any valid rent deed between the parties. Accordingly, respondent No.1 was not entitled to lay any claim of rent from the occupants of the property in question.

8. In such circumstances, the impugned order dated 31.03.2023 passed by the Learned Civil Judge (Junior Division), Hisar, being in

violation of the statutory bar is hereby set-aside. Consequently, the Trial Court is directed not to proceed further with the trial of subsequent Suit No. CS-306-2021 titled as "*Krishanjeet Singh vs. Devender Singh and others*" in which the matter in issue with respect to the validity of rent deed dated 22.11.2010 is directly and substantially sub-judice in the previously instituted suit between the parties i.e. CIS No.71460/2015 titled as "*Krishanjeet Singh vs. Vijay and others*".

9. At this stage, learned counsel for respondent No.1 submits that the Civil Appeal No.115-2019 titled as "*Krishanjeet Singh vs. Vijay and another*" and the cross-objections preferred therein are pending adjudication for the past almost 06 years and the same be thus ordered to be disposed of at the earliest.

10. Considering the request made by learned counsel for respondent No.1 to be genuine and same been not opposed by the learned counsel for the petitioner, the First Appellate Court is requested to expedite the proceedings in the aforementioned appeal as well as the cross-objection and conclude the adjudication upon the same, preferably within 06 months.

11. Pending application, if any, also stands disposed of.

13.08.2025

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**(HARKESH MANUJA)**  
**JUDGE**

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/ No