

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

CR-7582-2024 (O&M)

.....Petitioners

Versus

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. Namish Sodhi, Advocate
for the petitioners.

Mr. Anmol Puri, Advocate and
Ms. Sakshi Sharma, Advocate
for respondents No.1 to 3.

VIKRAM AGGARWAL, J (ORAL)

1. The present revision petition is directed against the order dated 18.10.2024 (Annexure P-6) passed by the Civil Judge (Junior Division), Ludhiana vide which the application filed by the petitioners for consolidation of two civil suits, one filed by the petitioners (Annexure P-1) and the second filed by the respondents (Annexure P-2) was dismissed.

2. Mr. Anmol Puri, Advocate has put in appearance on behalf of the contesting respondents and has filed his power of attorney.

3. A suit for permanent injunction restraining the defendants Ranjit Singh, Tejinder Singh @ Kittu and Harminder Pal Singh @ Babbu from interfering in the peaceful possession and construction being carried out by the petitioners-plaintiffs over property No.B-VIII-1103/1 measuring 230 Square Yards, situated at Sarai Bansidhar, Shoes Market, Ludhiana was filed by the petitioners-plaintiffs. Subsequently, another suit was filed by M/s Novena Hotel and three other persons namely Ranjit Singh, Tejinder Singh @ Kittu and Harminder Pal Singh @ Babbu against the petitioners and one

Chetan Batra seeking a decree of mandatory injunction directing the



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petitioners herein and Chetan Batra to permanently close the opening Mark-A B into the private passage of the plaintiffs therein. A counter claim (Annexure P-3) was also filed by the petitioners herein.

4. During the pendency of the suits, an application for consolidation of both cases (Annexure P-4) was filed by the present petitioners on the ground that separate trials may lead to conflicting judgments. The said application was opposed by way of a reply (Annexure P-5) and by way of the impugned order, the application was dismissed, leading to the filing of the present revision petition.

5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioners submits that the trial Court erred in dismissing the application for consolidation of both cases. He submits that the parties and the property in both the cases is the same and, therefore, the suits should have been consolidated with a view to avoid conflicting judgments and also with a view to save the time of the Court. Learned counsel relies upon the judgment passed by the Supreme Court of India in the case of '*M/s Chitivalasa Jute Mills Vs. M/s Jaypee Rewa Cement*', 2004 (2) RCR (Civil) 108 as also the judgment passed by this Court in the case of '*Nand Kishore Vs. Ram Dev*', 2002 (4) RCR (Civil) 173.

7. *Per contra*, learned counsel for respondents submits that there is no illegality in the impugned order. He has pointed out that parties to the suits are different, for, in the second suit (Annexure P-2), the first plaintiff is M/s Novena Hotel which is not a party in the previous suit and similarly, defendant No.3 in the second suit is Chetan Batra whereas he is not a party in the first suit. He further submits that the relief claimed in the first suit is of permanent injunction as regards property measuring 230 Square Yards



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whereas the relief claimed in the second suit is for mandatory injunction directing the defendants therein to close the opening Mark-A B into the private passage.

8. I have considered the submissions made by learned counsel for the parties and have perused the paper book including the site plans produced by learned counsel for the petitioners during the course of hearing. No doubt, a counter claim has also been preferred by the petitioners. However, the fact remains that the relief claimed in the first suit (Annexure P-1) is for permanent injunction;

“Suit for permanent injunction restraining the defendants, their agents, attorneys, servants, employees, associates etc. from in any manner interfering or causing any interference in the peaceful possession and construction being raised by the plaintiffs over their Property No.B-VII-1103/1 measuring 230 Square Yards, situated at Sarai Bansidhar Shoes Market, Ludhiana shown in red colour in the site plan attached with the plaint and bounded as under: -

East: Neighbour 12'9" + 33'9" + 46' 6"

West: Faqir Chand & Sons 74'

North: Road & Gagan Hotel

South: Kartar Lok Estate Pvt. Ltd. 26'2"

illegally, forcibly and without obtaining due process of law, on the basis of oral and documentary evidence.”

Whereas the relief claimed in the second suit (Annexure P-2) is for mandatory injunction and permanent injunction;

“Suit for decree of Mandatory Injunction directing the defendants to permanently close the opening Mark-A B into the private passage of the plaintiffs shown violet in the plan attached, which was allowed by the plaintiffs, for facilitating the transport of the building material to his newly constructed Shopping Complex, as shown yellow in the plan attached;

And



For Permanent injunction restraining the defendants from claiming any right over the said private passage Mark A B C D, shown violet in the plan attached and further restraining the defendants from raising any construction over the said private passage Mark A B C D,

On the basis of oral and documentary evidence.”

9. Still further, as has been pointed out during the course of hearing, the first suit (Annexure P-1) was filed in the year 2020 whereas the second suit (Annexure P-2) was filed in the year 2022 and the counter claim was filed in January 2023. Further, the application for consolidation was filed in August 2024. The stage in both suits is also stated to be different. The trial Court considered the matter and came to the conclusion that parties being different and the relief claims being also different, the suits could not be consolidated. In the considered opinion of this Court, there is no illegality in the said findings warranting interference in revisional jurisdiction as admittedly, the parties are different. In the second suit, there are certain additional parties and even the relief sought is not identical. The evidence to be led cannot be said to be the same in both cases. In any case, it has been pointed out during the course of arguments that the said suits are being tried together meaning thereby that they are being fixed on the same date. In the considered opinion of this Court, there is no occasion to order consolidation of the said suits and the prayer was rightly rejected by the trial Court. The judgments relied upon by learned counsel representing the petitioners would not come to their rescue. In the case of '*M/s Chitivalasa Jute Mills Vs. M/s Jaypee Rewa Cement*' (supra), it was held that both sides had filed suits for recovery. Whereas one party had claimed the amount on account of price of goods supplied and the amount not paid, the second party, in the suit filed by it had

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claimed the amount on the ground that jute bags had been supplied and payments were also made but certain jute bags were either found defective or not of ISI standards and were, therefore, rejected. Its further case was that it had also supplied cement to a sister concern of the first party and after deducting the value of the jute bags which were rejected and taking into account the price of the cement supplied, there was an excess payment which was to be recovered. Further, the prayer in that case was to transfer the suit from Rewa to Visakhapatnam. It was under these circumstances that it was held that both suits should not be tried separately. In fact, in that case also, there was no consolidation of both suits and only a direction was issued that the two suits should be placed before one Court and on one date of hearing. Similarly, the judgment in the case of '*Nand Kishore Vs. Ram Dev*' (supra) would also not come to the aid of the petitioners. In that case, one party had filed a civil suit for mandatory injunction directing the defendants therein to demolish and remove the encroachment made by them on a public place thereby obstructing a thoroughfare which was a part of a big chowk. The second party filed a civil suit restraining the Municipal Committee from demolishing the said construction/encroachment. An application was moved by the petitioners in the case under reference under Order 1 Rule 10 CPC for being impleaded as a party and also under Section 151 CPC for consolidation of the suits. However, the application for consolidation was rejected. A Co-ordinate Bench then ordered the consolidation of the suits by noticing that both the suits pertain to one and the same subject matter i.e a structure which the petitioners claimed to be an encroachment whereas the respondents claimed it to be belonging to them. In the present case, the reliefs claimed are substantially different and, therefore, as has been observed earlier also, there



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would be no necessity of consolidating the suits. However, since a counter claim is also there, it would be appropriate that both suits are tried by one Court and the same are fixed also on the same date, as far as practicable and are decided simultaneously.

The revision petition is accordingly dismissed with the aforesaid observations.

11.02.2025
Prince Chawla

(VIKRAM AGGARWAL)
JUDGE

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