

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****237****CR-814-2025(O&M)****Date of decision: 25.02.2026****Janmit Singh Chadda****...Petitioner(s)****Vs.****Kanwaljit Singh Chadda & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:** Mr. Satyaveer Singh, Advocate
for the petitioner.Mr. Vipul Joshi, Advocate
Mr. Sankalp Sharma, Advocate
Mr. Piyush Kumar, Advocate
for the respondents No.1, 3 and 4.*********NIDHI GUPTA, J.**

Present Revision petition has been filed by the defendant No.1 against the order dated 07.01.2025 (Annexure P1) passed by the learned Civil Judge (Junior Division), Chandigarh, whereby application filed by the petitioner under Section 10 CPC for staying the proceedings of the Civil Suit no.92 of 2019, has been disposed of.

2. It is inter alia submitted by learned counsel for the petitioner that the plaintiffs/respondents No.1 to 4 herein, had filed a Civil Suit no.92 dated 10.01.2019 (Annexure P2) for possession of the suit house as described



in the plaint against the petitioner/defendant No.1 and defendant No.2/pro-forma respondent No.5 herein. The petitioner had filed written statement dated 29.04.2019 (Annexure P3) in which the petitioner had duly mentioned that the issue of ownership of the suit house is pending consideration before this Court by way of RSA No.4838 of 2018 titled as "Janmit Singh Vs. Kanwaljit Singh & Others". Learned counsel submits that the said RSA emanates from a previous Civil Suit No.155 of 2005 filed by the petitioner against the present respondents with regard to the ownership of the house in question. It is submitted that previously Jagjit Singh (father of the petitioner and the respondents) was owner of the house in question. The petitioner had filed said previous Civil Suit No.155 of 2005 claiming ownership rights in the suit house by virtue of succession; whereas the respondents are claiming title to the suit property on the basis of a Will allegedly executed by Jagjit Singh. However, Jagjit Singh was a patient of Manic-Depressive Psychosis; and was on regular medical treatment. He had executed as many as seven Wills. Learned counsel vehemently contends that as the issue of ownership of the suit house is still pending consideration before this Court by way of aforesaid RSA-4838-2018, there was no cause or occasion for the respondents to have instituted the instant Civil Suit (Annexure P2) for possession of the suit house. It is submitted that in view of the fact that the petitioner had duly mentioned in his written statement to the present suit that the RSA regarding ownership was pending before this Court, it was incumbent upon the learned Civil Judge



to have stayed further proceedings in the present Civil Suit in terms of Section 10 of the CPC. Learned counsel argues that the result of the RSA will determine whether the petitioner has rights in the suit house or not. Admittedly, petitioner has been in possession of the suit property for the past several years. As such, the pending RSA has an incontrovertible bearing on the fate of the present Civil Suit. Therefore, application of the petitioner could not have been disposed of; and the Civil Suit 92 of 2019 ought to have been stayed. Learned Counsel argues that the scope of Section 10 CPC is that subject matter of both the Suits should be the same and the parties should be the same. Admittedly, in the present case, the subject matter in both the suits is the house question. It is argued that in case the proceedings in the present Civil Suit 92 of 2019 are not stayed, it will lead to proliferation of litigation. Besides, the said provision has been promulgated to avoid conflicting judgments. Therefore, though through the written statement it had been brought to the notice of the Civil Court that RSA is pending yet the present Civil Suit was not stayed. Even no issue was framed by the learned trial Court to the effect that the second/present Civil Suit is barred under Section 10. Clearly, on the date of framing of issues, the learned Civil Judge failed to apply his mind; whereas on the basis of the clear categorical pleading raised by the petitioner in his written statement (Annexure P3), duty was cast upon the Civil Judge to frame appropriate issue. In this regard, it was incumbent upon the Civil Judge to frame appropriate issue and ask the



plaintiff/respondent how the trial can commence in view of the pendency of the RSA. In support, learned counsel relies upon judgment of Delhi High Court in **E.C.E. Ltd. V. Action Construction Equipment Pvt. Ltd., (Delhi) : Law Finder Doc ID # 147872**, wherein it is held that:-

“C. Civil Procedure Code, 1908 Section 10 - In order to attract provisions of section 10 following conditions must be satisfied:-

(i) the matter in issue in both suits must be substantially the same

(ii) the previously instituted suit must be pending in the same Court in which the subsequent suit is brought or in a different Court in India having jurisdiction to grant the relief claimed; and
(iii) both the suits must be between the same parties or their representatives.”

3. Learned counsel also relies upon judgment of this Court in **Mana v. Dalel, (P&H) : Law Finder Doc ID # 74486**, wherein it is held that:-

“Civil Procedure Code, 1908, Section 10 - Stay of second suit - Declaratory suit - Decreed by Trial Court - Affirmed by First Appellate Court - Regular Second Appeal pending in High Court - Second suit for possession - Property in dispute is the same in both the suits and so are the parties - Cannot be disputed that the result of the RSA would determine as to whether the petitioner is really entitled to the relief of possession - Held that it was precisely for this reason that the trial Court thought it fit to stay the proceedings in the suit.”



4. Learned counsel further relies upon Division Bench judgment of this Court in **Raj Spinning Mills v. A.G. King Ltd., (Punjab)(DB) : Law Finder Doc ID # 84065**, wherein it is held that:-

"5. The next question is whether the word 'suit' section 10 would include the word 'appeal'. In Mulla's Civil Procedure Code at page 34 it is stated that the word 'suit' includes 'appeal'. It also includes an appeal to His Majesty in Council, and reference is there made to - 'Jamini Nath v. Midnapur Zamindary Co.', AIR 1923 Calcutta 716 (C). In this case Rankin, J., observed as follows :

"The presence or absence of these words - 'whether superior or inferior' - does not, in my judgment, affect the question one way or the other. I think that the reference at the end of the section to 'His Majesty in Council' shows that for this purpose 'suits' include 'appeals';"

and the learned Judge referred to a judgment of a Division Bench of that Court in - 'Bepin Behary v. Jogendra Chandra', AIR 1917 Calcutta 248 (D), where the same rule was laid down. In a case decided by their Lordships of the Privy Council, namely - 'Annamalay Chetty v. B. A. Thornhill', AIR 1931 Privy Council 263 (E), it was observed :

"Their Lordships regret that the second action was not adjourned pending the decision of the appeal in the first action as that would have simplified procedure and saved expense. Their Lordships also said :

"In their Lordships' opinion the former view is the, correct one and where an appeal lies the finality of the decree on such appeal being taken, is qualified by the appeal and the decree is not final in the sense that it will form 'res judicata' as between the same parties".

What happened in this case was that another suit was brought between the same parties pending an appeal on the same cause



of action and their Lordships said that the proper course was to adjourn the second action pending the decision of the appeal in the first action. The same rule was laid down in the other Calcutta case which I have mentioned, - AIR 1932 Calcutta 7)1 (A), and also, by Puranik, J., in - Krishnarao Namdeorao v. Shridhar Ramchandra', AIR 1947 Nagpur 154."

5. It is accordingly *"prayed that present petition may kindly be allowed and the order dated 07.01.2025 (ANNEXURE P-1) under revision may kindly be set aside and the present Civil Suit No. 92 of 2019 which is pending for 10.02.2025, may kindly be stayed till disposal of the Regular Second Appeal No. 4838/2018 titled as "Janmit Singh Vs Kanwaljit Singh and others" pending before this Hon'ble High Court which is pending for 09.05.2025, in the interest of justice, equity and fair play."*

6. Mr. Vipul Joshi, Advocate appears on behalf of respondents No.1, 3 and 4 and files Power of Attorney, which is taken on record.

7. Per contra, learned counsel for the respondents/plaintiffs vehemently opposes the submissions made on behalf of the petitioner and submits that present Civil Suit No.92 of 2019 (Annexure P2) was filed on 10.01.2019; to which petitioner had filed his written statement (Annexure P3) on 29.04.2019. It is submitted on the basis of pleadings of the parties, issues were framed by the learned trial Court vide order dated 19.08.2019. No challenge was laid by the petitioner to the said order. Ld. Counsel contends that if learned Civil Judge had not framed appropriate issues to be



satisfaction of the petitioner, why was the said order dated 19.8.2019, not challenged by the petitioner.

8. Thereafter, trial had commenced; and defendant evidence had begun on 30.01.2024/12.02.2024. It is submitted that it is at this belated stage on 07.11.2024 that the petitioner had moved the present application (Annexure P7), under Section 10 CPC, seeking stay of the suit proceedings under Section 10 CPC. Learned counsel contends that no reason whatsoever has been given by the petitioner to explain this delay in filing the instant application under Section 10 CPC at the stage of defendant evidence in the year 2024 when he was aware of the pendency of the RSA since 2018.

9. Learned counsel further submits that vide the impugned order, the application of the petitioner has not been dismissed and has been merely disposed of while framing additional issue in respect of Section 10 CPC. It is further pointed out that the said additional issues were framed by the learned trial Court vide impugned order dated 07.01.2025. However, the petitioner had failed to lead any evidence qua the said additional issues despite grant of numerous opportunities in this regard. As such, evidence of the petitioner had been closed by order vide order dated 18.08.2025. It is submitted therefore, in actual fact, no cause of action accrues to the petitioner for him to file the present Revision Petition, as undisputedly, from the above facts, it is evident that vide the impugned order, necessary issue qua Section 10 CPC had been duly framed in respect of which the petitioner



has failed to lead any evidence resulting in closer of his evidence by order vide order dated 18.08.2025. To make good his claim, learned counsel for the respondents has handed over copy of the zimni orders passed by the learned Civil Judge (Junior Division), Chandigarh from 21.01.2025 till 13.02.2026 - which are taken on record without any objection or dispute thereto raised by learned counsel for the petitioner. It is accordingly prayed that the present Revision Petition be dismissed.

10. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the petitioner.

11. Brief facts of the case in chronological order are as follows: -

04.05.2005: The petitioner had previously filed Civil Suit No.155 dated 04.05.2005 titled as "Janmit Singh Vs. Kanwaljit Singh & Others" seeking declaration that petitioner is owner in possession to the extent of 50% of the present suit house by way of succession. To the contrary the respondents were seeking title to the suit house on the basis of Will dated 20.11.2003 executed in their favour by Jagjit Singh, father of the parties.

06.07.2015: The said Suit was dismissed by the Id. Civil Judge (Junior Division), Chandigarh vide judgment and decree dated 06.07.2015 (Annexure P4).

27.03.2018: The Civil Appeal filed by the petitioner against above said judgment dated 6.7.2015 was dismissed by the Id. Additional District Judge, Chandigarh vide judgment and decree dated 27.03.2018 (Annexure P5).



Against the said concurrent judgments and decrees the petitioner had preferred RSA-4838-2018 before this Court.

10.01.2019: In the meantime, the respondents No.1 to 4 herein have filed the present Civil Suit No.92 of 2019 on 10.01.2019 (Annexure P2), seeking possession of the suit house.

29.04.2019: The petitioner had filed his written statement on 29.04.2019 (Annexure P3) to the said Civil Suit No.92 of 2019. A perusal of the written statement (Annexure P3) filed by the petitioner to the present suit shows that the only pleading qua the pending RSA was raised by the petitioner in Paras 4 and 7 of the Preliminary Objections which reads as follows: -

“4. That the Suit filed by the plaintiff on the basis of the judgments passed the Trial Court as well as on the basis of the Appellant Court. The matter still sub-Judice the Will in question dated 20.11.2003 is under challenge before the High Court. The RSA is registered at Serial No. 4838 of the year 2018 and the same is pending for its adjudication.

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7. That the answering defendant filed the RSA in the Hon'ble High Court and the same is pending adjudication before the Hon'ble Court. It is pertinent to mention here that the plaintiff claiming the rights of possession by virtue of Will, the same is sub-judice. Hence, the suit filed by the plaintiff is liable to be dismissed on this score.”

It has been contended by learned counsel for the petitioner that in view of the fact that a specific pleading qua pendency of the RSA has been



raised by the petitioner in written statement (Annexure P3), it was incumbent upon the Civil Judge to frame an appropriate issue in this regard.

19.8.2019: However, on the basis of the pleading of the parties, following Issues were framed by the learned trial Court vide order dated 19.08.2019: -

- “1. Whether the plaintiff is entitled for relief of possession as mentioned in the head note the plaint? OPP*
- 2. Whether the plaintiff is entitled for recovery of damages/mesne profits as mentioned in the head note of the plaint? OPP*
- 3. Whether plaintiff has not come to the court with clean hands and suppressed material facts? OPD*
- 4. Whether the present suit is not maintainable? OPD*
- 5. Relief.”*

It is to be noted that on a Court query, learned counsel for the petitioner has very candidly admitted that the abovesaid order was not challenged by the petitioner at any stage for incorrect framing of issues. As such, this contention of the petitioner that appropriate issues were not framed by the learned trial Court in the first instance, is untenable.

4.8.2021: In RSA-4838-2018 Notice of motion was issued by a Co-ordinate Bench vide order dated 04.08.2021 (Annexure P6). The said RSA is still pending consideration before this Court.

30.01.2024: In the Civil Suit 92 of 2019, after producing nine witnesses, evidence of the plaintiff/respondent was closed in the affirmative on 19.01.2024 and matter was fixed for defendant evidence on 30.01.2024.



08.10.2024: On 08.10.2024, the petitioner had moved the instant application (Annexure P7) under Section 10 CPC for staying the proceeding of the present Civil Suit No.92 of 2019.

17.12.2024: The respondents had filed reply dated 17.12.2024 (Annexure P8) to the said application.

07.01.2025: Vide impugned order dated 07.01.2025 (Annexure P1), the said application of the petitioner has been disposed of by the learned trial Court in the following manner: -

*“Further, the present application under consideration has been filed at much belated stage. It is held by Hon'ble High Court in **Satbir Singh and another vs. Balbir Singh and others (supra)** that application under Section 10 CPC must be filed at initial stage so that the issue is treated as a preliminary issue.*

Furthermore, in the present case, the issue of Section 10 CPC involves consideration of the pleadings of the earlier suit, the judgment of trial court and the judgment of Appellate Court. In other words, the said issue is a mixed question of facts & law.

Further, as per Order 14 Rule 2 CPC, the Court shall pronounce judgment on all issues.

Hence, in the interest of justice, the present application is hereby disposed of with the observation that inadvertently, the following issues qua Section 10 CPC and limitation could not be framed, hence, same are being framed while disposing of the present application -

1A. Whether the issue qua ownership of the disputed house in the present case is hit by Section 10 CPC on the ground that this



issue is also directly and substantially in issue in the previously instituted suit no. 155/2005?OPD

4A. Whether the present suit is barred by law of limitation? OPD. Ordered accordingly. The application stands disposed of accordingly.

Notably, the plaintiff had closed his evidence in affirmative.

In these circumstances, now to come up on 21.01.2025 for cross examination of DW1 and remaining evidence of defendant.”

Thus, vide the impugned order, the learned trial Court framed two additional issues; and matter was fixed for 21.1.2025 to enable the petitioner to lead evidence in respect of the additional issues.

However, a perusal of the zimni orders supplied by learned counsel for the respondent shows that:

21.1.2025: On 21.01.2025 the matter was fixed for cross-examination of DW1 and for remaining defendant evidence. But the case was adjourned at request of learned counsel for the defendant; and fixed for 10.2.2025.

10.2.2025: However, on the said date also i.e. 10.02.2025, the matter was adjourned at request of learned counsel for the defendant.

14.2.2025: On the next date of hearing i.e. 14.02.2025, again an adjournment was sought on behalf of the petitioner/defendant side. Learned trial Court took due note of the fact that the Civil Suit No.92 of 2019 is of the year 2019 and falls in the category of Action Plan cases; and that though the evidence of the defendant had commenced on 30.01.2024, the matter has been



repeatedly adjourned at their request. However, the case stood adjourned to 18.03.2025 for cross-examination of DW1 and for remaining defendant evidence, in the interest of justice, subject to costs of Rs.1000/-.

18.3.2025: On 18.03.2025, none had appeared on behalf of the defendants despite the case having been called out several times. Accordingly, the defendants were proceeded against ex parte.

27.3.2025: Thereafter, an application was moved by the petitioner for setting aside of the ex parte order dated 18.03.2025, which was not objected to by learned counsel for the respondents/plaintiffs; and which application was accordingly allowed vide order dated 27.03.2025; and matter stood adjourned to 15.04.2025 for cross-examination of DW1 and remaining defendant evidence.

15.4.2025: On 15.04.2025, the matter was again adjourned to 06.05.2025 on request of learned counsel for the defendant. On 06.05.2025, 12.05.2025 and 28.05.2025, some defendant evidence was led. However, as remaining defendant witnesses were not present, the matter was adjourned to 07.07.2025, subject to last opportunity.

7.7.2025: On 07.07.2025, again no defence evidence was present and request for adjournment was made by learned counsel for the defendants, which was allowed in the interest of justice; and matter was adjourned to 23.07.2025 for defendant evidence subject to final opportunity.



23.7.2025: On the said date of hearing i.e. 23.07.2025, Application was moved by the petitioner to adjourn the trial till the pendency of the present Civil Revision Petition.

1.8.2025: The said application of the petitioner was dismissed by the trial Court vide detailed order dated 01.08.2025 with the following observations:

"2. Subsequently, the respondents have filed suit for possession & recovery of damages on 10.01.2019. The Id. Predecessor of this Court vide order dated 07.01.2025 had disposed of the application u/s 10 CPC and framed an additional issue but failed to stay the proceedings of the present case.

6. The defendant by way of present application wants this court to adjourn the matter till pendency of the CR No.814 of 2025 before Hon'ble Punjab & Haryana High Court which has been filed against the order dated 07.01.2025 passed in this case by learned Predecessor of this Court. Although a CR No.814 of 2025 has been filed by the applicant/defendant but no stay order has been produced by the defendant passed by Hon'ble High Court. The matter is pending since 30.01.2024 for defendant evidence and since then defendant evidence has not been concluded. It appears that the defendant is lingering on the matter on one pretext or the other. Therefore, the present application being devoid of merits is hereby dismissed. It is made clear that defendant is directed to conclude its evidence on 18.08.2025 failing which the evidence of defendant will be closed by order. However, this order does not have any bearing effect on merits of the case."



18.8.2025: On the next date of hearing i.e. 18.08.2025, evidence of the defendant/petitioner was closed by order for the following reasons while recounting the abovesaid deliberate delay being caused by the petitioner: -

“Case is fixed for concluding of defendant evidence and it has been clearly directed vide order dated 01.08.2025 that evidence of defendant be concluded failing which evidence of defendant will be closed by order. Learned counsel for plaintiff vide order dated 19.01.2024 has closed his evidence and the case was adjourned to 30.12.2024 for defendant evidence at its own responsibility. Since then the case is fixed for defendant evidence. In the meanwhile several applications have been moved. Vide order dated 07.01.2025 Ld. Predecessor of this Court has disposed of application under Section 10 CPC for staying proceedings of the present case and the case was adjourned to 21.01.2025 for cross-examination of DW1 and remaining evidence of defendant. Thereafter, on 21.01.2025 and 10.02.2025, learned counsel for defendant has sought adjournment thereafter matter was adjourned to 14.02.2025 for evidence of defendant. On 14.02.2025, matter was adjourned to 18.03.2025 for cross-examination of DW-1 and remaining evidence of defendant subject to cost of Rs. 1,000/- to be deposited in DLSA, Chandigarh. Vide order dated 18.03.2025, defendants were proceeded against ex parte and thereafter the matter was adjourned to 25.03.2025 for ex parte evidence of plaintiff. But on 27.03.2025 an application for setting aside ex parte order dated 18.03.2025 has been moved by the defendant which was allowed subject to cost of Rs.1000/- to be paid to the plaintiff and thereafter the case was adjourned to 15.04.2025



for cross-examination of DW1 & remaining defendant evidence. On 15.04.2025, matter was adjourned to 06.05.2025 for remaining cross-examination of DW-1. On 06.05.2025, the matter was adjourned to 12.05.2025 and thereafter the matter was adjourned to 28.05.2025. On 28.05.2025, matter was adjourned to 07.07.2025 for defendant evidence subject to last opportunity. On 07.07.2025, on the request of learned counsel for defendant has sought adjournment subject to final opportunity, On 23.07.2025, instead of concluding evidence, an application for adjournment has been filed thereafter on 30.07.2025 reply to the application has been filed by the plaintiff. On 01.08.2025, the application was dismissed and it was directed that defendant evidence be concluded on 18.08.2025 failing which evidence will be closed by order. Today also instead of concluding the evidence, the learned counsel for defendant has asked for adjournment. It appears that defendant is lingering on the matter. No further adjournment is justified. No ground is made out to further adjourn the case. Accordingly, defendant evidence is hereby ordered to be closed.

Now to come up on 28.08.2025 for rebuttal evidence if any, otherwise for arguments."

Thereafter, the matter was fixed for rebuttal evidence. On a Court query, learned counsel for the petitioner has admitted that the said order dated 18.08.2025 was not challenged by the petitioner at any stage. Thereafter, the matter was fixed on several dates for rebuttal evidence.

10.11.2025: On 10.11.2025, the petitioner moved an application under Order 7 Rule 11 CPC read with Section 151 CPC for rejection of the plaint.



9.1.2026: The said application was dismissed by the learned trial Court vide detailed order dated 09.01.2026 with the following observations: -

“7. In the present case, the evidence of plaintiff and defendant has been concluded and case is fixed for rebuttal evidence otherwise for arguments but however, present application has been moved. It appears that present application has been moved only to delay the proceedings of the present case. Moreover, if at the time of final arguments, this court comes to a conclusion that less court fee has been affixed by the plaintiff then it may pass judgment and decree subject to payment of court fee. Therefore, judgments relied upon by the Id. counsel for defendants are not applicable to the present application as in the present case court fee has been affixed by the plaintiff. Since all the evidence has been led by defendant, therefore, it has to be decided at the time of passing final judgment and decree that at what rate advalorem court fees has to be paid by the plaintiff. Accordingly, the present application in hand stands dismissed. However, this order does not have any bearing effect on merits of the case.”

On Court query, learned counsel for the petitioner has admitted that yet again that no challenge has been laid to the said order dated 09.01.2026 by the petitioner/defendants.

13.2.2026: Matter was again fixed for rebuttal evidence, at which stage the petitioner now moved an application under Section 151 read with Order 18 Rule 3 CPC for leading evidence on the newly framed issues 1A and 4A. However, the said application of the petitioner was dismissed by the learned



Civil Judge vide order dated 13.02.2026 taking into account the fact that the petitioner had taken 16 opportunities to lead his evidence on the said issues, and had failed to do so. Whereafter, evidence of the petitioner had been closed by order. It was also taken note of that the petitioner had been filing one application after another without arguing the matter.

12. In the face of the above facts, all arguments of the petitioner regarding non-framing of necessary issues; and scope of Section 10 CPC; and/or pendency of the RSA 4838 of 2019, fall flat on their face. A bare reading of the above facts clearly establishes that vide the impugned order, necessary issues were duly framed in respect of Section 10 CPC, whereafter more than adequate opportunity was granted to the petitioner, many times over, to lead evidence on the said issues. The petitioner has failed to do so. The petitioner has demonstrated an extraordinary incorrigibility in misusing the due process of Law. The same cannot be permitted.

13. In these circumstances, it would be apposite to refer to a judgment of the Hon'ble Supreme Court in **Pukhraj D. Jain v. G. Gopalakrishna, (SC) : law Finder Doc ID # 71615**, wherein it is held as follows:

"4. We have heard learned counsel for the parties and have perused the records. In our opinion, the view taken by the High Court is wholly erroneous in law and must be set aside. The proceedings in the trial of a suit have to be conducted in accordance with provisions of the Civil Procedure Code. Section 10 Civil Procedure Code no doubt lays down that no court shall



proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed. However, mere filing of an application under Section 10 Civil Procedure Code does not in any manner put an embargo on the power of the court to examine the merits of the matter. The object of the section is to prevent Courts of concurrent jurisdiction from simultaneously trying two parallel suits in respect of the same matter in issue. The section enacts merely a rule of procedure and a decree passed in contravention thereof is not a nullity. It is not for a litigant to dictate to the court as to how the proceedings should be conducted, it is for the court to decide what will be the best course to be adopted for expeditious disposal of the case. In a given case the stay of proceedings of later suit may be necessary in order to avoid multiplicity of proceedings and harassment of parties. However, where subsequently instituted suit can be decided on purely legal points taking evidence, it is always open to the court to decide the relevant issues and not to keep the suit pending which has been instituted with an oblique motive and to cause harassment to the other side.” (Emphasis added)

14. In the context of the above-said judgment of the Hon’ble Supreme Court, this Court in **Satbir Singh v. Balbir Singh (P&H) : Law Finder Doc ID # 73474**, has held that: -



“8. One cannot lose sight of the fact that the parties have concluded their respective evidence and the case was fixed for arguments when the trial Court proceeded to decide issue No. 5 and passed the order of stay of proceedings in the suit. Once the parties have led evidence it was appropriate for the court to decide the suit on merits when the subject-matter of the litigation as well as parties are not common in the proceedings.”

15. Reference may also be made to a judgment of the Kerala High Court in **S. Kumar v. Sudhakaran (Kerala) : Law Finder Doc ID # 203157**, wherein the above-said view has been followed: -

“4. Section 10 of the Civil Procedure Code provides that no Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court having jurisdiction to grant the relief claimed. The basic requirement for the application of Section 10 is pendency of two suits in which the parties are same or the parties in one suit are persons claiming title under the parties in the other suit. To attract Section 10, the matter in issue in one suit must be directly and substantially in issue in the other suit. The object of Section 10 of the Civil Procedure Code is to prevent Courts of concurrent jurisdiction from simultaneously entertaining and adjudicating upon two suits in respect of the same subject matter between the same parties. It is intended to avoid conflicting decisions being rendered by different Courts. One of the tests to be applied



in the matter of stay under Section 10 of the Civil Procedure Code is whether the decision in one suit would operate as res judicata in the other suit. If so, applying Section 10 of the Civil Procedure Code, the subsequently instituted suit should be stayed. Though the pendency of the Appeal against the decree in the previously instituted suit can be treated as pendency of the suit, once the suit is finally disposed of, there is no scope for applying Section 10 of the Civil Procedure Code. Pendency of the execution proceedings in the previously instituted suit is not a ground to stay the subsequent suit, invoking Section 10 of the Civil Procedure Code. If the matter in issue was decided in the previously instituted suit, the writ petitioner could very well raise the plea of res judicata in the subsequent suit. If such a plea cannot be raised by the writ petitioner, that itself is an indication that the ingredients of Section 10 are not attracted. Section 10 lays down a procedure and it does not confer upon the parties any substantive right."

16. In the facts and circumstances of the present case as noted above, the petitioner can derive no benefit from the relied upon judgments as the same are distinguishable on facts and law. Ld. counsel for the petitioner has been unable to demonstrate that in any of the relied-upon cases, the matter had been deliberately delayed at the instance of the applicant/petitioners therein.

17. From the facts afore noted, the mala fide intent on part of the petitioner to deliberately delay the proceedings in Civil Suit No.92 of 2019 is



writ large. No doubt, the Regular Second Appeal No.4838 of 2018 is pending which will be decided in due course. However, counsel for the petitioner has been unable to clarify to this Court as to why no objection was raised to the issues framed by the learned trial Court in the year 2019 vide order dated 19.08.2019; why instant application under Section 10 was moved only in the year 2024; and most importantly, why even after framing of additional issues vide impugned order dated 07.01.2025, no evidence was led by the petitioner despite grant of as many as 16 opportunities. From these facts, it is clear that the objection of section 10 CPC has been raised by the petitioner perfunctorily merely as a ploy to delay the proceedings, without any serious intent to pursue the same diligently or judiciously.

18. Accordingly, no ground is made out for grant of relief to the revisionist. Present Revision Petition stands **dismissed**.

19. Pending application(s) if any also stand(s) disposed of.

25.02.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No