

TA-472-2023 & CR-1260-2021 (O&M)

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

Sr. No.102

Date of Decision: 23.07.2025

1.

TA-472-2023

SATISH KUMAR SAINI

...Applicant

Versus

JASBIR KAUR AND ANOTHER

....Respondents

2.

CR-1260-2021 (O&M)

JASBIR KAUR

...Petitioner

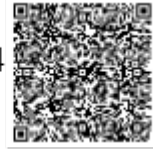
Versus

SATISH KUMAR SAINI AND ANOTHER

....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Applicant (in TA-472-2023) and
respondent No.1 (in CR-1260-2021), in person.



TA-472-2023 & CR-1260-2021 (O&M)

Mr. Deepak Arora, Advocate
for respondent No.1 (in TA-472-2023).

Mr. Jagtar Kureel, Advocate
for the petitioner (in CR-1260-2021).

Mr. Aman Sharma, Advocate
for respondent No.2 (in both the cases).

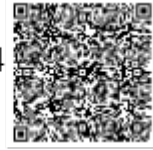
ARCHANA PURI, J. (Oral)

TA-472-2023 has been filed by the applicant-Satish Kumar Saini, for seeking transfer of the civil suit i.e. CS/12106/2013, titled '*Jasbir Kaur Vs. LIC Housing Finance Limited and another*', by way of consolidation with civil suit i.e. CS/625/2018, which is pending in the Courts at Derabassi, District SAS Nagar. CS/12106/2013, which is sought to be transferred, is pending in the Courts at Chandigarh.

CR-1260-2021 has been filed by the petitioner-Jasbir Kaur, to assail the order dated 21.01.2020, passed by learned trial Court, whereby an application made for stay of the suit i.e. CS/625/2018, filed at the instance of Satish Kumar Saini, pending in the Courts at Derabassi, District SAS Nagar, was dismissed.

Both the transfer application, as well as the revision petition are taken up together, as the subject matter of the litigation and the parties to the lis are same.

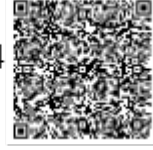
For the convenience of discussion, the parties are referred to, as mentioned in TA-472-2023.



TA-472-2023 & CR-1260-2021 (O&M)

Firstly, the transfer application filed by the applicant-Satish Kumar Saini, is considered.

It is averred in the application that on 28.03.2011, the applicant had sought issuance-cum-registration of the sale certificate qua the immovable property i.e. plot measuring 1 kanal, 15 marlas and 18 sarsahi, situated at Derabassi, District SAS Nagar, under the provisions of Consumer Protection Act, 1986 and the said complaint was allowed on 02.02.2012. However, in the appeal, the complaint was held to be not legally maintainable, under the Consumer Protection Act, though liberty was granted to approach Civil Court for the same remedy. Subsequently, the order passed in the appeal was summarily upheld in the revision filed before National Consumer Commission and also by Hon'ble Supreme Court. Further, it is averred that the applicant-Satish Kumar Saini had instituted the civil suit i.e. CS/625/2018 on 17.09.2018, in the Courts at Derabassi, District SAS Nagar, where the immovable property was situated. However, respondent No.1 had filed a suit i.e. CS/12106/2013, at Chandigarh on 02.07.2013, thereby seeking declaration and registration of ownership rights as share in the suit property, possession and partition of the suit property. The proceedings in the said suit almost remained stayed, till February 2023, firstly during pendency of CR-2301-2017 and thereafter, during pendency of CR-2442-2021, before this Court. The issue "***whether Chandigarh Court has territorial jurisdiction to entertain the suit***", was framed in the suit filed at Chandigarh, which was not decided as a '*preliminary issue*'. In trial relating to the suit, pending at Derabassi, the plaintiff's evidence commenced on 12.04.2021 and cross-examination was completed in part,

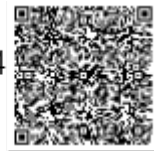


TA-472-2023 & CR-1260-2021 (O&M)

whereas, the evidence in the suit pending at Chandigarh, commenced later i.e. on 11.11.2021, although adjudication of the framed issue of '**territorial jurisdiction before Civil Judge, Chandigarh**', remains pending. Both the suits are pending qua the same property and relate to same three parties. In paragraph No.8 of the application, the detail has been given, with regard to the relief sought in the said two suits, which is reproduced in verbatim, as hereingiven:-

S.No.	<i>Derabassi Suit</i>	<i>Chandigarh Suit</i>
1.	Declaration that petitioner is absolute owner of suit property.	Declaration that Respondent-1 is co-owner of suit property.
2.	Mandatory injunction for directing Respondent-2 to issue and register Sale Certificate qua absolute ownership.	Mandatory injunction for directing Respondent-2 to issue and register Sale Certificate in joint with petitioner.
3.	Permanent injunction for restraining both respondents/defendants from alienating the suit property.	Permanent injunction for restraining the petitioner & respondent-2 from alienating the suit property.
4.	--	Possession of claimed-share in suit property.
5.	--	Partition of claimed-share in suit property.

Further, it is also averred that relief sought in the suit pending at Chandigarh, is relating to the property, which is situated in Derabassi. The applicant is impleaded as defendant No.2 in the Chandigarh suit. He is neither resident of Chandigarh, nor working for gain or office at Chandigarh. However, the issue qua the '**territorial jurisdiction**' is still pending. Remaining issues are also almost similar and in the given circumstances, a prayer was made for consolidation of two suits, pending between the same

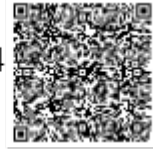


TA-472-2023 & CR-1260-2021 (O&M)

parties, as there is possibility of passing of conflicting decisions by the two Courts, deciding the same issues between the same parties, relating to the same property. Also, in the application, it is averred that nature of the evidence, which is to be led in the suits and the precise controversy arising for trial in the suits, is same and therefore, consolidation of both the suits is necessary to avoid multiplicity of litigation between the same parties.

Reply at the instance of both the respondents was filed. Respondent No.1-Jasbir Kaur, in its reply, has asserted that there is concealment at the instance of the applicant, about his defence having struck off long ago, in the suit pending in the Chandigarh Courts. Keeping in view the same, both the suit, as such, cannot be consolidated. Rather, the applicant is using clever tactics seeking consolidation of both the cases, to bypass the order qua striking off, of his defence.

It is further averred in the reply that respondent No.1 had filed the suit, way back in the year 2013 and the applicant had been delaying it, on one pretext or the other. Even now, he is not cross-examining respondent No.1, in the case and has filed the present application with an ulterior motive. The question of consolidation can be raised only before the Court at Derabassi, in case the suit filed by respondent No.1 at Chandigarh, is transferred to Derabassi, where appropriate application can be moved in that eventuality, for adjudication. Furthermore, it is averred that this consolidation is sought to bypass the order passed by this Court in CR-2301-2017. Also, it is averred that the applicant never took the plea to transfer the case pending at Chandigarh, or Derabassi, before this Court in the said revision petition. Even, the Court at Chandigarh has to decide the question

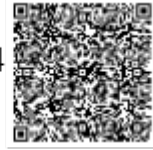


TA-472-2023 & CR-1260-2021 (O&M)

of jurisdiction as well, keeping in view the order dated 21.05.2019 passed by this Court in CR-2301-2017, copy whereof is Annexure R-1/3. Furthermore, it is averred in the reply that the applicant had also filed an application under Section 16 of the CPC, for return of the plaint, as per Order 7 Rule 10 CPC, due to situation of the suit property in Derabassi i.e. again for want of jurisdiction. The Court of Ms. Geetanjali Goel, Civil Judge (Junior Division), Chandigarh, framed issue No.4-A, with regard to the jurisdiction, vide order dated 10.12.2019 and the said issue reads as under:-

“4A Whether this Court has no territorial jurisdiction to entertain the present suit? OPP”

The suit filed by respondent No.1, before the Courts at Chandigarh, is still pending. The applicant had also filed an application for treating the aforesaid issue as *‘preliminary issue’* and the same was dismissed, vide order dated 24.09.2021, while imposing costs to the extent of Rs.2,000/-. Again, this order was challenged before this Court, by way of CR-2442-2021 and the same was also dismissed by this Court, vide order dated 14.02.2023, copy whereof is Annexure R-1/6. Even, Special Leave to Appeal bearing No.4202 of 2023, was filed before Hon’ble Supreme Court against the aforesaid order and the same was also dismissed, vide order dated 21.03.2023, copy whereof is Annexure R-1/7. As such, it is averred that the applicant is acting malafide, though his defence was struck off, as far back as on 09.02.2017 and he is creating obstructions in progress of the case, which is evident from the order dated 11.09.2023 passed by learned trial Court at Chandigarh. Vide order dated 03.03.2023, respondent No.1 was permitted to call the applicant as witness, but the applicant filed an



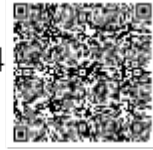
TA-472-2023 & CR-1260-2021 (O&M)

application dated 27.03.2023 to modify/rectify the orders. Another application was filed by the applicant, under Sections 152 and 153, read with Section 151 CPC, for modification/rectification of orders dated 24.08.2023, 10.08.2023, 25.07.2023, 15.07.2023, 06.07.2023, 11.05.2023, 27.04.2023, 27.03.2023 and 21.03.2023 and the said application was dismissed, vide order dated 01.09.2023, copy whereof is Annexure R-1/8. Yet another application was filed by the applicant, under Order 14 Rule 2 CPC, after the dismissal of Special Leave to Appeal, again praying for treating Issue No.4-A as '*preliminary issue*'. In this manner, the applicant is trying to delay the disposal of the suit.

Further, also it is averred that though the applicant had already filed a Transfer Petition (Civil) bearing No.64 of 2023, thereby seeking transfer of the civil suit filed by respondent No.1, from the Court of Sh. Chetesh Gupta, Civil Judge (Junior Division), before District Judge, Chandigarh, but in the present transfer application filed before this Court, transfer is sought from the Courts at Chandigarh to Derabassi, District SAS Nagar. The applicant has concealed the fact about filing of the transfer petition before the District Judge, Chandigarh. In the given circumstances, a prayer has been made for dismissal of the transfer application.

Even, respondent No.2-LIC Housing Finance Limited, had filed a separate reply, thereby making prayer for dismissal of the application and almost same assertions as made by respondent No.1 in the reply, though not so detailed, have been given the reply.

Applicant, who is present in person, as well as, the counsel for the respondents heard.



TA-472-2023 & CR-1260-2021 (O&M)

No doubt, this Court has ample power to transfer the suit, when two suits are filed by the same parties, wherein common question of facts and law is involved, but however, for seeking transfer of the suit and also for consolidation of the cases, as sought in the present case, though it is a wavering assertion made in the application, it is incumbent upon the parties coming to the Court, to bring forth the clear and specific facts, which have bearing on the decision of the transfer application. However, from the facts as culled out from the paperbook, it is evident that the applicant has filed the present application, only with an oblique motive to undo the orders passed by various Courts, thereby denying the relief, which he had sought by way of various applications. However, he did not state in the application about the date of institution of the cases, as well as about his role having appraised in the civil suit at Chandigarh and also about various orders passed by the Courts, thereby denying him any relief.

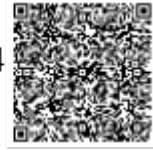
It is evident that civil suit i.e. CS/12106/2013, was filed by respondent No.1-Jasbir Kaur, in the Courts at Chandigarh, wherein, respondent No.2-LIC Housing Finance Limited, was impleaded as defendant No.1 and the applicant-Satish Kumar Saini, was impleaded as defendant No.2. This suit was filed in the year 2013 and the suit filed by the applicant i.e. CS/625/2018, seeking same relief against LIC Housing Finance Limited and Jasbir Kaur, was filed in the year 2018 in the Courts at Derabassi. The relief sought in both the suits is substantially same. It is also evident from various orders, annexed with the reply filed at the instance of respondent No.1-Jasbir Kaur, that at first instance, in the suit pending at Chandigarh, the applicant had filed an application under Order 7 Rule 11 CPC, for rejection



TA-472-2023 & CR-1260-2021 (O&M)

of the plaint, which was dismissed by the Court on 11.11.2016. The said order dated 11.11.2016 was challenged before this Court, by way of civil revision petition i.e. CR-2301-2017, wherein the proceedings were stayed, at first instance. However, this revision petition was dismissed vide order dated 21.05.2019, copy whereof is Annexure R-1/3. In the meanwhile, before the proceedings were stayed by the Court, the defence of the applicant-Satish Kumar Saini, was struck off by learned trial Court, vide order dated 09.02.2017. He had appeared before the Court at Chandigarh on 02.04.2014, but he had not filed the written statement and consequently, his defence was struck off, vide the aforesaid order dated 09.02.2017. An application was filed by him, thereby seeking review of the order of striking off his defence and the same was dismissed. Ultimately, the same was challenged by the applicant, by way of CR-1424-2021 before this Court and the same was also dismissed, vide order dated 02.08.2021, copy whereof is Annexure R-1/1. Not only this, Special Leave to Appeal (C) No.18383 of 2021, was filed by the applicant and the same was also dismissed by Hon'ble Supreme Court, vide order dated 13.12.2021, copy whereof is Annexure R-1/2.

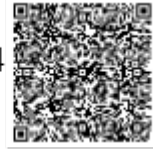
Furthermore, the order dated 11.11.2016, vide which, the application under Order 7 Rule 11 CPC was dismissed, was also challenged before this Court by way of filing CR-2301-2017, which was also dismissed vide order dated 21.05.2019. Even, a separate application was filed, thereby raising objection to the place of suing the suit filed by respondent No.1, in view of the provisions under Section 16 CPC. After hearing the arguments on the said application, separate issue No.4-A, as reproduced in the earlier portion



TA-472-2023 & CR-1260-2021 (O&M)

of the judgment, was framed, vide order dated 10.12.2019. Furthermore, an application was filed for treating the said issue as '*preliminary issue*' and the said application was also dismissed, vide order dated 24.09.2021 and costs to the extent of Rs.2,000/- was imposed upon the applicant. Furthermore, the said order was challenged before this Court, by way of filing CR-2442-2021, which was dismissed by this Court, vide order dated 14.02.2023, copy whereof is Annexure R-1/6. Not only this, even again, Special Leave to Appeal bearing No.4202 of 2023, was filed before Hon'ble Supreme Court, to assail this order and the same was also dismissed by Hon'ble Supreme Court, vide order dated 21.03.2023, copy whereof is Annexure R-1/7.

It is in this background, the present transfer application has been filed. The applicant had knocked the door of the Courts for multiple times and at no stage, he was successful. Even, he had filed an application to assail the place of suing, where the suit pending in the Chandigarh Courts was filed and the same was dismissed by learned trial Court. The revision filed, was dismissed by this Court and even the Special Leave to Appeal was dismissed by Hon'ble Supreme Court. This entire litigation has not been disclosed by the applicant in the transfer application. He has also not disclosed the very fact of the defence having been struck off, which also gives a strong reason to the Court, not to accept the averments made for transfer of the case and what to talk about the consolidation of two cases. The application has been filed with an oblique motive to undo the orders passed by the Courts, *vis-a-vis*, striking off the defence, with the purpose only to delay the decision of the suit. In the given circumstances, the transfer application i.e. **TA-472-2023** sans merit and the same is hereby



TA-472-2023 & CR-1260-2021 (O&M)

dismissed.

Now coming to the civil revision, it is pertinent to mention that in view the aforesaid background of both the cases, wherein all remedies available with the applicant, to assail the jurisdiction of the Court, have been denied to him, it is pertinent to mention that respondent No.1-Jasbir Kaur, who had filed the civil suit i.e. CS/12106/2013 at Chandigarh, was impleaded as party in the suit i.e. CS/625/2018, which was filed by the applicant, at Derabassi, at a later stage. At first instance, the applicant had not impleaded respondent No.1-Jasbir Kaur, as a party and it was subsequently, that she was made party to the suit. Thereupon, Jasbir Kaur, in the suit pending in Derabassi, which was subsequent to the suit filed by her, had raised objection under Section 10 CPC, wherein, it was averred that the suit is regarding the same property and parties, qua which civil suit is already pending in the Courts at Chandigarh and therefore, the suit filed by the applicant-Satish Kumar Saini i.e. CS/625/2018 at Derabassi, is liable to be stayed.

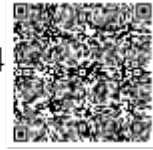
After hearing the parties concerned, the Court had dismissed the application for framing of *'preliminary issue'* qua Section 10 CPC and disposed of the same, by making observations, as hereingiven:-

“XXX

XXXX

XXXX

The present suit clearly falls within the ambit of Section 16 of the Code of Civil Procedure, which is basic procedural law qua institution of the suit. If any issue qua territorial jurisdiction has been framed by a competent Court of law and the suit qua the same property is pending does not mean that Court in which the territorial jurisdiction of property itself



TA-472-2023 & CR-1260-2021 (O&M)

situated should stay all the said suits.

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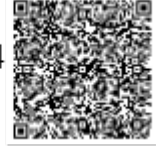
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As such, the application for framing of preliminary issue qua Section 10 CPC was dismissed.

A plain reading of Section 10 CPC makes it clear that, where the subject matter of the suit one and the same and the parties are also the same, under such circumstances, if there are two suits between the parties, it is the subsequent suit, which has to be stayed and not the previous one. However, it is required that the matter in issue should be directly and substantially same between the two suits. The basic object of Section 10 CPC is to protect a person from multiplicity of proceedings, between the same parties. The object, as such, is to prevent the concurrent jurisdiction from simultaneously trying two preliminary suits, between the same parties, in respect of the same matter in issue. Taking this into consideration, it is pertinent to mention that, as observed in the earlier portion of the order, the objection was raised by the applicant-Satish Kumar Saini, in the suit pending in the Courts at Chandigarh, thereby questioning the place of suing, chosen by respondent No.1-Jasbir Kaur, at the time of filing the suit. The said objection was dismissed by learned trial Court. Furthermore, the revision filed before this Court was dismissed and even the Special Leave to Appeal was dismissed by Hon’ble Supreme Court.

In the light of the aforesaid orders, when the applicant-Satish Kumar Saini has already agitated the question, with regard to place of suing, where he remained unsuccessful, it is quite obvious that the suit, which is prior in time i.e. CS/12106/2013, filed by respondent No.1-Jasbir Kaur, in



TA-472-2023 & CR-1260-2021 (O&M)

the Chandigarh Courts, ought to continue further and to avoid passing of the conflicting judgments, the subsequent suit i.e. CS/625/2018, filed by the applicant-Satish Kumar Saini, in the Courts at Derabassi, District SAS Nagar, shall remain stayed.

In view of the aforesaid terms, the revision petition i.e. **CR-1260-2021**, is hereby **allowed**.

Pending civil miscellaneous application(s), in both the cases, if any, also stands disposed of.

23.07.2025
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No