

2025:PHHC:027732



CR-6495-2019 (O&M)

[260] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6495-2019 (O&M)
Date of Decision : 24.02.2025

Sandeep Mahajan ...Petitioner

versus

Dimple MahajanRespondent

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Vivek Salathia, Advocate
for the petitioner.

Mr. V.K. Sandhir, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

[1] The instant revision petition is directed against order dated 24.09.2019 passed by the learned Civil Judge (Junior Division), Amritsar, whereby, application filed by the defendant under Section 151 CPC seeking consolidation of two suits bringing to the notice of the Court, Order dated 31.05.2016 whereby, the suits already stand ordered to be consolidated stands declined, observing that the suit was never consolidated, as the issues were framed separately vide order dated 10.09.2018.

[2] The husband and wife are in thick of *lis*, fighting for properties.

[3] Respondent-wife filed suit for possession by way of partition by metes and bounds of the property as mentioned in the head-note of plaint in the suit bearing Civil Suit No.99290 of 2013. The same was followed by suit filed by husband, who sought declaration to the effect he is exclusive owner of the same property. Plaint filed by husband has been placed on record as Annexure P-3. Husband filed application seeking consolidation of



the suits. The same was allowed vide order dated 31.05.2016, observing as under:-

“3. Heard. In both the suits the parties are same and the controversy is also in regard to the same property over which both the plaintiff and the defendant in both the cases are claiming their rights. Husband is claiming the property to have been virtually purchased by him however but the name of his wife, out of his funds. But the wife is claiming the property otherwise stating that she is the actual owner of property to a specific extent. Wife has filed suit for possession by way of partition by metes and bounds of the property in question and the husband has filed suit for declaration to the effect that he is exclusive owner in possession of the property in dispute. The evidence which is to be led by both the parties is going to be similar in nature in both the cases as the controversy is in regard to the same house in question. So it would be expedient in both the cases are consolidated. The application stands disposed off accordingly.”

[4] Despite there being order consolidating the suits, by sheer oversight of the Court, as well as the counsels, the suits kept on proceeding independently. Realizing the mistake, the present application was moved, which stands declined by learned Civil Judge (Junior Division), Amritsar, vide order dated 24.09.2019.

[5] In the considered opinion of this Court, learned Trial Court fell in error in holding that no consolidation was done by the learned predecessor merely for the reason that two different orders on stay application were passed and issues were framed separately vide order dated 10.09.2018. The order dated 21.05.2016 has attained finality as the same has remained unchallenged, till date. It explicitly orders consolidation of the suits.



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Judicial order can't be ordered to be defeated by conduct.

[6] In the background of order dated 31.05.2016, this Court finds that the observation made by learned Civil Judge (Junior Division), in the impugned order cannot be sustained and the same needs to be *set aside*.

[7] Order dated 31.05.2016 shall bind the rights of the parties. It is further clarified that the evidence shall be led first in the suit prior in time. Rights of the parties shall further abide by the provisions as contained under Order XVIII so far as the issue with respect to who leads evidence first and who leads rebuttal is concerned.

[8] **Disposed off.**

[9] All pending miscellaneous application(s), if any, stands *disposed off*.

(PANKAJ JAIN)
JUDGE

24.02.2025

'R. Sharma'

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