

INTHE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.R. No. 887 of 2004

Date of decision November 30, 2007

Muni Lal s/o Rangi Ram s/o Man Singh, r/o Julani, Tehsil and Distt. Jind.

..... Petitioner

Versus

- 1. Smt. Krishna d/o Rangi**
- 2. Smt. Darshno d/o Rangi**
- 3. Smt. Bhim Singh s/o Dhan Singh**
- 4. Jeet Singh s/o Dhan Singh**
- 5. Budh Singh (minor) s/o Muni Lal through his next friend and natural guardian Smt. Dhanpati w/o Muni Lal.**
- 6. Dhan Singh s/o Rangi Ram.
(all residents of village Julani, Tehsil and District Jind.)**

..... Respondent

CORAM: HON'BLE MR. JUSTICE SHAM SUNDER

Present: Mr. R.N. Lohan, Advocate
for the petitioner.

Mr. Amit Kumar Jain, Advocate
for respondents No. 1 to 4 and 6.

None for respondent No.5.

Sham Sunder, J.

This revision is directed against the order dated 13.1.2004 rendered by the Court of Civil Judge, (Junior Division), Jind vide which it accepted the application for consolidation of Civil Suit No.166 of 2002 titled as Muni Lal Vs. Dhan Singh etc. with Civil Suit No. 167 of 1998 titled as Muni Lal Vs. Rangi Ram etc.

2. Muni Lal filed Civil Suit No. 167 of 1998 for declaration against Rangi Ram and others on the averments, that the judgment and decree dated 28.8.1991 passed in Civil Suit No.2 of 2.1.1991, titled as Bhim

Singh etc. Vs. Rangi in favour of defendant Nos. 2 to 4 qua 96 kanals of land, out the agricultural land comprising in khewat No.65 khata No. 85-87 total measuring 121 kanal 7 marla was illegal, null and void. According to Muni Lal, on 10.6.1988, a family settlement had taken place, regarding land measuring 121 kanal 7 marla and Rangi Ram had given this land to the plaintiff and defendant No.5 in equal shares. It was further averred that since Rangi Ram, after the family settlement, referred to above, was not the owner in possession of land measuring 121 kanals 7 marlas, he could not suffer decree dated 28.8.1991 in respect of 96 kanal of land referred to above. In Civil Suit No.166 of 2002 Muni Lal Vs. Dhan Singh and others, relief for declaration was sought that the Will dated 3.8.1994 executed by Rangi Ram since deceased, in favour of Dhan Singh was illegal, null and void as the deceased was not the owner in possession of the land measuring 25 kanal 7 marla, which had been bequeathed by him. Accordingly, an application was filed that with a view to avoid a conflicting decisions in both the suits, involving the same subject matter, Civil Suit No. 166 of 2002 Muni Lal Vs. Dhan Singh etc be consolidated with Civil Suit No.167 of 2003 Muni Lal Vs.Rangi Ram and others.

3. After hearing the learned Counsel for the parties, and on going through the record of the case, the trial Court ordered the consolidation of both the suits vide order dated 13.1.2004.

4. Feeling aggrieved, against the order dated 13.1.2004, rendered by the Court of Civil Judge, (Junior Division), Jind, the instant revision petition was filed by Muni Lal-petitioner.

5. On notice of the revision petition, the Counsel for the respondents put in appearance and contested the same.

6. I have heard the learned Counsel for the parties, and have gone through the record of the case, carefully.

7. The dispute in, both the suits, bearing Nos. 166 of 2002 and 167 of 1998 referred to hereinbefore, was, as to whether, Rangi Ram, since deceased, was the owner in possession of land measuring 121 kanal 7 marlas in the area of Village Julani Tehsil and District Jind. In one suit, the decree having been suffered by Rangi Ram, in respect of a portion of the land, out of land measuring 121 kanal 7 marla, was challenged on the ground that he (Rangi Ram) had already entered into a family settlement dated 10.6.1988, as a result whereof land measuring 121 kanal 7 marla the subject matter of dispute, in both the suits, was given to Muni Lal and Jit Singh and as such, after that he was left no right or interest, in the said land. In the other suit the Will alleged to have been executed by Rangi Ram, in respect of 25 kanal 7 marlas of land was challenged, on the ground, that since he was not left with any right or interest, in the property, in dispute, he was not competent to execute the same. In these circumstances, in my considered opinion, the trial Court was right in coming to the conclusion, that since the subject matter, in both the suits, was the same, the dispute was also almost same, and the parties were heirs of Rangi Ram, now deceased, with a view to avoid conflicting decision, it was a fit case, wherein Civil Suit No. 166 of 2002 should be consolidated with Civil Suit No. 167 of 1998. The decision rendered by the trial Court for consolidating both the suits, with a view to avoid conflicting decisions does not suffer from any illegality or infirmity. In this view of the matter, no interference with the order of the trial Court is called for.

8. In view of the reasons recorded, hereinbefore, the

revision petition is dismissed. The parties are directed to appear before the trial Court on 11.1.2008. The trial Court is, however, directed to dispose of the suits within a period of one year positively, from the date of receipt of a certified copy of the order and send the compliance report within 15 days from the date of decision of lis.

**(SHAM SUNDER)
JUDGE**

**November 30, 2007
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