

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 535 of 2009 (O&M)

Date of decision: February 28, 2011

Maharaja (Brigadier) Sukhjit Singh

.. Petitioner

Vs.

Tikka Shatrujit Singh and others

.. Respondents

Coram: Hon'ble Mr. Justice A.N. Jindal

Present: Mr. Sugreev Kapoor, Advocate for the petitioner.

Mr. Naresh Parbhakar, Advocate for the respondent No.1.

A.N. Jindal, J (Oral)

This petition assails the order dated 21.8.2008 passed by the Additional Civil Judge (Sr. Division), Kapurthala, whereby the application moved by the petitioner- defendant for treating the issue No.9 as preliminary issue was dismissed.

Arguments heard.

The intention of the legislature to frame issue as preliminary issue is only prior to the settlement of issues and before evidence commences. Order XIV Rule 2 CPC reads as under :-

“2. Court to pronounce judgment on all issues – (1)
Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues.

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to -

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force,

and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the

decision on that issue.”

The instant case, I have been informed that the issues have already been framed and the plaintiff has already closed the evidence. As such, now, there is no reason to treat this issue of maintainability as preliminary issue. However, a direction could be issued to the trial court to expedite the trial.

In the circumstances, this revision petition is dismissed. However, the trial court is directed to adjudicate and decide the case as expeditiously as possible within six months from today.

February 28, 2011
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(A.N. Jindal)
Judge