

(2011) 05 SHI CK 0273
In the High Court Of Himachal Pradesh
Case No : Civil Revision No. 152 of 2010

M/s. S.M. Minocha and Company and Another	APPELLANT
Vs	
M/s. Puri Oil Mills Ltd.	RESPONDENT

Date of Decision : 23-05-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 10

Citation : (2011) 3 ShimLC 441

Hon'ble Judges : Kuldeep Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kuldeep Singh, J.—This revision petition has been directed against order dated 13.9.2010 passed by learned Civil Judge (Senior Division), Nurgpur in CMA No. 230 of 2010 declining to stay the Civil Suit filed by M/s Puri Oil Mills Ltd. u/s 10 CPC. The further case of the petitioners is that Civil Suit titled as Ashwani Kumar Minocha vs. K.K. Puri and Others which is earlier in time is pending at Shimla for Rs. 5,10,000/-. Another suit filed by M/s Puri Oil Mills Ltd. has been filed later on for recovery of Rs. 7,15, 177.16 in which defendants are M/s S.M. Minocha & Co. and another. In the suit at Shimla, the defendants are K.K. Puri, Mrs. Indu Puri and M/s Puri Oil Mills Ltd. The learned Counsel for the petitioners has submitted that the parties in both the suits are claiming under the same parties and points involved in the two suits are same. It has been submitted that the suit filed at Nurgpur is later in time, therefore, the learned Court below has erred in not allowing the application.

2. It has been contended on behalf of the respondent that in both the suits parties are different, cause of action is different and therefore, no fault can be found with the order passed by the learned Court below, which requires no interference. Heard the learned Counsel for the parties. It has been specifically recorded by the learned Court below that in the two suits, the parties are different and cause of action are also different. Once the parties are different and

cause of action are different, then it cannot be said that the matter in issue is directly and substantially in issue in both the suits. The petitioners have placed nothing on record along with the revision to show that the findings recorded by the learned Court below prima facie are wrong. There is no error of jurisdiction in the order passed by the learned Court below. There is no merit in the petition, which is accordingly dismissed, so also the pending application(s) if any.