

(1988) 07 P&H CK 0074
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 922 of 1988

M/s Today Stationers and Gift Centre, Chandigarh and others	APPELLANT
Vs	
Gurdev Singh and others	RESPONDENT

Date of Decision : 13-07-1988

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 14 Rule 2

Citation : (1988) 07 P&H CK 0074

Hon'ble Judges : Amrit Lal Bahri, J

Bench : Single Bench

Advocate : R.L. Batta, with Mr. Sanjeev Kumar Pabbi, for the Appellant; R.P. Bali, for the Respondent

Final Decision : Dismissed

Judgement

A.L. Bahri, J.—Vide this order two civil revision petitions No. 922 and 923 of 1988, are being disposed of as they have arisen out of two orders passed in the civil suit which is pending in the Court of Sub Judge 1st Class, Chandigarh.

2. Gurdev Singh and Inderjit Singh filed the suit for ejectment of M/s Today Stationers and Gift Centre, Chandigarh and others defendants from the ground floor and basement of shop-cum-office No. 178 Sector 37-C Chandigarh. At the time the suit was filed, the provisions of East Punjab Urban Rent Restriction Act were not attracted to the premises in dispute as they were exempt. The suit was filed on October 19, 1985. The period of exemption of the premises from the operation of the Rent Act expired on 24.10.1985. In the meantime on 25.1.1986, the plaintiffs-landlord filed an application for ejectment on the ground of non payment of rent for the period 1.9.1985 to 13.8.1986 before the Rent Controller, Chandigarh. On the first date of hearing, the arrears of rent along with interest and cost as assessed by the Rent Controller were paid and accepted by the landlord. The application for ejectment was thus dismissed. Subsequently, on similar grounds, another ejectment application was filed on 15.4.1987, after the arrears of rent claimed were paid, the said application was also dismissed on

30.4.1987. On 14.7.1987, the present petitioners defendants moved an application in the suit mentioning the aforesaid facts and raising points of waiver, estoppel and that the suit had become infructuous. It is on this application that Sub Judge 1st Class, Chandigarh, on 8.1.1988 framed an additional issue No. 5-A as under and adjourned the case for evidence of the plaintiff:-

Whether the suit has become infructuous as alleged?

The Civil revision No. 922 of 1988 has been filed challenging this order. On 20.1.1988, the present petitioners filed another application before the trial Court inter alia alleging that the previous application dated 14.7.1987 be decided on merits forthwith. This application was dismissed by Sub Judge 1st Class, Chandigarh, on February 12, 1988, Civil Revision No. 923 of 1988 has been filed against this order.

3. The learned counsel for the petitioners has argued that several law points were raised in the application dated 14.7.1987 relating to waiver, estoppel and that the suit had become infructuous. These questions could be disposed of on hearing arguments as no evidence was required to be led. The fact that earlier application for ejectment were filed on the ground of non payment of arrears of rent which were paid and those applications were dismissed was admitted on behalf of the respondents and further that after expiry of the period of exemption of the premises from the operation of the Rent Act, the suit had become infructuous could also be decided without leading any evidence. According to the counsel, there was no need for adjourning the case for recording evidence. On merits, it has been argued that it is for the trial Court to decide these questions raised. On the ether hard, the learned counsel for the respondents has argued that it was incumbent upon the Court to decide all the issues of law and fact together after recording evidence thereupon. If at the preliminary stage from questions of law had been raised effecting the jurisdiction of the Court to try the suit, it was discretionary for the trial Court to treat such an issue as preliminary for disposal of the suit. In the present case, according to him, the plaintiff has already led evidence on the issues already framed and it is an attempt on the part of the present petitioners-tenants to delay the disposal of the suit that applications aforesaid were filed for getting decisions in bits.

4. After giving due consideration to the respective arguments, I find no force in the revision petitions. Order 14 Rule 2 of the 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.

A bare reading of the aforesaid provisions would show that the Court is required to decide all the issues and pronounce judgment thereon. The only exception is where the Court is of the opinion that any part or the whole of the suit could be disposed of on an issue of law if such issue relates to jurisdiction of the Court or to bar the suit created by any law for the time being in force. In that eventuality, the framing of other issues could be postponed. In the present case when issues on merits have already been framed and the plaintiff had already led evidence, taking into consideration the subsequent events, the trial Court framed additional issue and decided to dispose of the same along with other issues already framed. There is no illegality or irregularity in the passing of the impugned orders framing the additional issue and asking the parties to lead evidence for disposal of the suit on all the issues together.

5. Finding no merit in the revision petitions, the same are dismissed leaving the parties to bear their own costs. The parties, through their counsel are directed to appear before the trial Court on 1.8.1988.