

(1991) 05 RAJ CK 0006
In the Rajasthan High Court
Case No : Civil Revision Petition No. 69/89

Pratap Singh

APPELLANT

Vs

Madan Lal and another

RESPONDENT

Date of Decision : 03-05-1991

Acts Referred:

Citation : (1991) 05 RAJ CK 0006

Hon'ble Judges : Milap Chand Jain, J

Bench : Single Bench

Advocate : M.P. Gupta, for the Appellant; Suresh Shrimalee, for the Respondent

Final Decision : Dismissed

Judgement

Milap Chandra Jain, J.—This revision petition has been filed by the defendant against the common order of the Additional Munsif No.2, Bhilwara dated February 3,1989 by which he has rejected all the four applications moved in the four civil suits filed against him for the recovery of certain amounts on the basis of dishonoured cheques issued by him to the plaintiffs Madanlal and Krishna Gopal (two cheques to each). The necessary particulars of these suits are given in the below noted table:

No. & year of the suit

Name of the plaintiff

Amount claimed

Particulars - of the cheque

State of the suit

66/83 (2/66)

Madanlal

Rs.2800/-

for Rs. 2040/- dt.9.3.80 dishonoured on 11.6.1989

Evidence of both has been closed

146/33

Madanlal

Rs.2040/-

forRs. 1500/- dt. 27.4.1980 dishonoured on 11.6.1990

Plaintiff has closed his evidence.

Defendants has examined his witness Shankarlal D.W.I.

143/83

Krishna Gopal

Rs.1360/-

for Rs. 1000 dt.5.5.1980 dishonoured on 6.11.1980

Plaintiff has closed his evidence.

Defendant has examined himself and Shankelal D.W.2.

133/83 (3/88)

Krishna Gopal

Rs.2100/-

for Rs. 1545/- dt.21,4.1980 dishonoured on 11.6.1980

Plaintiff closed his evidence on 19.4.88 Defendant's evidence was closed on 17.2.1989.

2. It has been contended by the Learned Counsel for the defendant-petitioner Partap Singh that the learned trial court has acted with material irregularity and illegality in the exercise of its jurisdiction in not consolidating the four suits. He further contended that the facts and circumstances of all the four suits are almost similar, the consolidation of the suits would go a long way in their expeditious disposal and it would reduce the inconvenience and expenses of both the parties. He also contended that the authority of this Court given in Jai Kishan v. Bajranglal I.LR. (11) Raj. 1173, was placed before the trial court and it was not even considered. He lastly contended that there are chances of being given conflicting judgments. He also relied upon Bokaro and Ramgur Ltd. Vs. The State of Bihar and Others,

3. The Learned Counsel for the plaintiff-non-petitioners duly supported the order under challenge. He contended that the suits are pending since the year 1983, the applications for consolidation of the suits were moved to further delay the

disposal and no explanation has been given for the inordinate delay of six years in moving the application for the consolidation of the suits. He further contended that the defendant-petitioner now wants consolidation of the four suits as his evidence has been closed in two suits. He lastly contended that there is no question of conflicting judgments as suits are based on different dishonoured cheques, the amounts are different in all the four suits and the plaintiffs are different in two suits each. He relied upon *Bhopo Fakirbhai (minor) and Another Vs. Bai Mani and Others*, and *S.S. Bhagvan Singh and others v. Smt. Sharda Bai* A. I. R. 1990 Kar. 222.

4. In reply to the aforesaid contention of the Learned Counsel for the plaintiff-non-petitioners, the Learned Counsel for the petitioner contended that the defendant in each case averred in his written statement for the consolidation of all the suits.

5. It has been observed in *Jai Kishan v. Bajranglal*, ILR (11) Raj 1173 : 1961 RLW 473) para 7 that the purpose of consolidating the suits is that there may not be unnecessary waste of time of a court of law in determining the rights of the parties in respect of the subject matter in dispute by taking proceedings twice over and thus leading to the multiplicity of proceedings and inconvenience to the parties. For the purpose of consolidation, there are certain conditions to be fulfilled. Broadly, these conditions are that real contesting parties must be the same and the determination of rights of the parties in one suit must be intimately connected with the determination of the rights of the parties in another suit. Admittedly, Suits No. 88/83 and 146/83 have been filed by Madanlal and Suits No.27/83 and 133/83 have been filed by Krishna Gopal. It is also not in dispute that each suit has been filed for the recovery of the amount of different dishonoured cheques given by the defendant to the plaintiff with interest. It is also not in dispute that the defendant's evidence has been closed in suits No. 88/83 and 133/83 and in other two suits his evidence is going on. By consolidation of the four suits, the defendant- petitioner wants to fill up the lacunae in the two Suits No. 27/83 and 133/83 which has remained in his evidence on account of his failure to produce evidence in them. The suits are already pending since the year 1983. The parties have already been put to great inconvenience and expenses during all these eight years. The defendant has to produce his evidence in two suits which he can produce on one date and arguments in all the four suits maybe heard on another date also. The consolidation of the suits now will greatly prejudice the plaintiff-non-petitioners. Under these facts and circumstances, it cannot be said that the learned trial court has acted with material irregularity or illegality in the exercise of its jurisdiction in not consolidating the suits and passing the impugned order. The facts of *Jai Kishan v. Bajranglal*, 1961 RLW 473 and *Bokaro and Ramgur Ltd. Vs. The State of Bihar and Others*, are quite different and distinguishable.

6. Consequently, the revision petition is dismissed with costs which are assessed at Rs. 1,500/-.

7. The trial court is directed to decide the aforesaid suits within three months of the receipt of the record. The parties will appear before the trial court on May 27, 1991. The office will see that the records of all the four suits are returned forthwith and are duly received by the trial court before the said date.