

Leelu Ram v. Sardara Singh and others (Ashok Bhan, J.)

not been dismissed from service. The amount due to the appellant shall be paid to him along with interest @ 6 per cent per annum within a period of four months from the date of communication of this order. Should the amount be not paid within the stipulated period, it shall carry interest @ 12 per cent p.a.

There will, however, be no order as to costs.

R.N.R.

Before Ashok Bhan, J.

LEELU RAM,—Petitioner.

versus

SARDARA SINGH AND OTHERS,—Respondents.

Civil Revision No. 479 of 1991.

15th May, 1991.

Code of Civil Procedure, 1908—O. 1, rl. 10—Punjab Pre-emption Act, 1913—S. 28—Impleadment in pre-emption suits—Separate suits filed by two pre-emptors for possession of property—Such pre-emptors not impleaded by each other as party in their respective suits—Where pre-emptors possess equal qualifications in respect of same suit property, they should be impleaded as parties to the suits.

Held, that where more than one pre-emptor possessing equal or varying qualifications separately or individually without awaiting of others, then the Courts experience difficulties in dealing with number of suits arising out of the same cause of action. In such eventuality, the plaintiff in one case can apply to be joined as defendant in another suit filed by the other pre-emptor and the Court under the circumstances has no option but to allow such a plaintiff to be joined as a defendant in the other suit and further consolidating the suits thus pending simultaneously and decide upon the respective and varying claims of the parties

(Paras 5)

Held, further, that S. 28 of the Punjab Pre-emption Act, 1913 deals only with procedural aspect. By providing that plaintiff in each case shall be joined as defendant in each of the other suits, all the pre-emptors are enable to come before the Court in the same suit in presence of each other and the Courts are also placed in a better position to adjudicate upon the claims of rival pre-emptors.

(Para 5)

Petition Under Section 115 C.P.C. for revision of order of the Court of Shri R. C. Godara, HCS, Sub-Judge, 1st Class, Sonapat, dated the 15th January, 1991 accepting the application and ordering to the applicant Sardar Singh to be impleaded as defendant No. 3 in this case.

...Claim: Suit for possession by pre-emption;

Claim in Revision : For reversal of the order of the Lower Appellate Court.

S. C. Kapoor, Advocate.

S. A. Bansal, Advocate.

JUDGMENT

Ashok Bhan, J.

(1) This revision petition has been filed by Leelu Plaintiff. Facts giving rise to the present revision petition are as under:—

(2) Leelu filed the present suit for possession by way of pre-emption wherein he challenged the sale made by Tara Chand Vendor in favour of Ram Kumar on the plea that he was a co-sharer. On 18th November, 1989 a compromise was executed between the plaintiff and the vendee and the same was filed in Court on 20th November, 1989 which was to come up for consideration on 21st November, 1989.

(3) Sardara Singh also filed a suit for possession by pre-emption in respect of the same suit property which was pending in the Court of Mr. Lalit Batra, Sub Judge, Sonapat. He moved an application for being impleaded as a party to the suit filed by Lilu Plaintiff. This application filed by Sardara Singh was opposed by Leelu Plaintiff. The trial Court allowed the application of Sardara Singh under Order 1 rule 10 C.P.C. impleading him as defendant in the present suit. Leelu plaintiff being aggrieved has come in revision against the said order.

(4) I have heard the learned counsel for the parties at length and find no force in the present revision petition. Section 28 of the Punjab Pre-emption Act, 1913 (hereinafter referred to as the Act) is reproduced below:—

“Section 28. Concurrent hearing of suits.

When more suits than one arising out of the same sale or foreclosure are pending, the plaintiff in each case, shall

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be joined as defendant in each of the other suits and in deciding the suit, the court shall in each decree state the order in which claimant is entitled to exercise his right".

(5) On analysis of Section 28 of the Act, it transpires that when more suits than one arising out of the same sale or foreclosure are pending, the plaintiff in each case, shall be joined as defendant in each of the other suits and in deciding the suit, the court shall in each decree state the order in which the claimant is entitled to exercise his right. Unfortunately, in this case neither Sardara Singh impleaded Leelu as a defendant in the suit filed by him for pre-emption nor Leelu impleaded Sardara Singh as defendant in the suit filed by him. Where more than one pre-emptor possessing equal or varying qualifications separately or individually without awaiting of others, then the Courts experience difficulties in dealing with a number of suits arising out of the same cause of action. In such eventuality, the plaintiff in one case can apply to be joined as defendant in another suit filed by the other pre-emptor and the Court under the circumstances has no option but to allow such a plaintiff to be joined as a defendant in the other suit and further consolidating the suits thus pending simultaneously and decide upon the respective and varying claims of the parties. Section 28 of the Act deals only with procedural aspect. By providing that plaintiff in each case shall be joined as defendant in each of the other suits, all the pre-emptors are enable to come before the Court in the same suit in presence of each other and the Courts are also placed in a better position to adjudicate, upon the claims of rival pre-emptors.

(6) Apart from what has been stated above, even under order 23 rule 3(B), explanation, 4(d) of C.P.C. a notice was necessary to be served on Sardara Singh before any compromise between the parties could be recorded. I do not find anything wrong with the order passed by the trial Court and the same is upheld.

(7) It has been stated by the learned counsel appearing for Sardara Singh that the suit filed by Sardara Singh as decreed on 14th February, 1991 by Mr Lalit Batra, Sub Judge 1st Class, Sonapat and in view of that the present revision petition has become infructuous. I find no merit in the revision petition and the same is dismissed with no order as to costs.

R.N.R.