

Mana Vs. Dalel

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Court : Punjab and Haryana

Decided On : Sep-27-1978

Reported in : AIR1979P& H39

Judge : Surinder Sigh, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Sections 10 and 151

Appeal No. : Civil Revn. No. 434 of 1978

Appellant : Mana

Respondent : Dalel

Advocate for Pet/Ap. : Mr. S. S. Rathor

Judgement :

ORDER

1. Mana petitioner in this Revision Petition filed a suit against the respondent Dalel for possession of some agricultural land. When the suit reached the concluding stage, an application was filed by the defendant-respondent under Section 10 read with Section 151, Code of Civil Procedure, with a prayer that the proceedings in the suit may be stayed and the reason given for this was that in an earlier suit in regard to the same property between the same parties, a declaratory decree had been passed in favour of the petitioner by the trial Court which decree was affirmed by the first Appellate Court. The respondent had, however, preferred a

Regular Second Appeal No. 19 of 1977--Dalel v. Mana which was admitted by this Court on Jan. 13, 1977 and was pending disposal, The contention was that the point in issue in the present case largely depended upon the result of the Regular Second Appeal which is pending in this Court and hence the proceedings in the suit should be stayed. The matter was considered by the trial Court and by means of the impugned order dated Jan. 24, 1978, the prayer made in the application was allowed and the proceedings in the suit were stayed pending disposal of the Regular Second Appeal mentioned above. It is this order of the trial Court which is impugned in the Revision Petition.

2. Mr. S. S. Rathor, learned counsel for the petitioner has contended that the relief for possession which is prayed for by the petitioner in the latter suit is on a different cause of action and even the relief prayed is for possession whereas the decree in the earlier suit was for a declaration. It is submitted that in such a situation the provisions of S. 10 of the Code could not be invoked. I am unable to agree with this contention. The property in dispute is the same in both the suits and so are the parties. It cannot be disputed that the result of the Regular Second Appeal would determine as to whether the petitioner is really entitled to the relief of possession and it was precisely for this reason that the trial Court thought it fit to stay the proceedings in the suit, I am, however, in agreement with the submission of the learned counsel that the disposal of the Regular Second Appeal in this Court may take a very long time and this would unnecessarily delay the disposal of the suit for possession and would also keep the question of inheritance to the property in abeyance. It is stated by the learned counsel for the petitioner at the bar that in the suit for possession the entire evidence by both the parties has been completed and the suit was at the stage of arguments. In order to provide relief to the petitioner, all that can be done is to expedite the disposal of the Regular Second Appeal. The office shall place the Regular Second Appeal before Hon'ble the Chief Justice who may consider the desirability of expediting the appeal in view of the circumstances noticed above.

3. So far as the present Revision Petition is concerned, it merits dismissal and it is ordered accordingly. There will be no order as to costs of the same.

4. Petition dismissed.

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