

RAJASTHAN HIGH COURT

M/s Anurag

Vs.

Additional District Judge

S.B. Civil Writ Petition No. 6812 of 2005

(Prem Shanker Asopa, J.)

13.01.2006

JUDGMENT

Prem Shanker Asopa, J.

1. By this writ petition. the petitioners have challenged the order dated 18.7.2005 (Annexure) passed in Civil Suit No. 96/2001 pending before the Additional District Judge, Sikar, whereby the Additional District Judge refused to consolidate the four civil suits for recovery of money on the ground that the plaintiffs are different, cause of actions and amount are different and further merely because the defendant is common such cases cannot be consolidated. It was also observed that in Section 10 Civil Procedure Code there is no provision of consolidation nor any other provision of Civil Procedure Code such cases can be consolidated.

2. Briefly stated the relevant facts of the case are that the respondents-plaintiffs filed four separate civil suits against petitioners for recovery of different amount which become due on different dates against petitioners-defendants, and all the civil suits are pending before Additional District & Sessions Judge, Sikar. The details of the suits number and amount is as under:-

S.No.	Title of suit	No. of suit	Amount recoverable
1.	Vinod Kumar Sharda v. Anurag & Company	93/2001	4,30,254/-
2.	Arun Kumar v. Anurag & Co.	36/2001 (95/2001)	2,75,935/-
3.	Sanjay Kumar Sharda v. Anurag & Company	37/2001 (96/2001)	3,40,274/-
4.	Parwati Devi Sharda v. Anurag & Company	94/2001	2,12,725/-

3. The petitioners have filed written statements in all the aforesaid civil suit in which the evidence of the respondents-plaintiffs have been completed and the cases are fixed

for the evidence of the petitioners- defendants.

4. An application under Section 10 read with 151, Civil Procedure Code was filed in Civil Suit No. 96/2001 on or about on 4.12.2004 on the ground that the defendants in all civil suits are common, subject-matter is same and evidence of the defendant (petitioner) will be identical in all the four suits and in case all the suits are tried separately then there is possibility of conflicting findings/judgments. Therefore, it is in the interest of justice and to avoid the complications of separate trials, the suits may be consolidated. The relevant para of the application is reproduced hereunder:-

"izfroknh Hkh ,d gh gS rFkk mDr pkjksa oknksa esa izfroknh dh lk{; Hkh ,d leku gh gksuh gS rFkk ;fn mDr pkjksa oknksa dh vUoh{kk vyx vyx :i ls dh tkrh gS rks mDr pkjksa oknksa ds fu.kZ; esa fofHkUurk vkus dh iw.kZ IEHkkouk gS bl dkj.k mijksDr of.kZr pkjksa oknksa dks lesfdr fd;k tkdj ,d lkFk gh lquokbZ fd;k tkuk U;k;fgr esa vko';d gS rkfd mDr oknksa dh vyx vyx vUoh{kk ls mRiUu gksus okyh tfVyrkvksa dks jksdk tk lds bl dkj.k U;k; fgr esa mijksDr of.kZr pkjksa oknksa dks lesfdr fd;k tkuk vR;Ur gh vko';d gSa A"

5. In reply to the aforesaid application filed by the petitioners-defendants and respondent-plaintiff submitted that it is wrong to say that all the defendants are common in the said civil suits. In Civil Suit No. 94/2001 defendants are not common and there is no possibility of conflicting judgments as the respondents-plaintiffs have no objection if all the suits are heard simultaneously. The relevant portion of reply filed by the respondents- plaintiffs read as under :

";g fd mijksDr muokuh okn i= Jheku th ds U;k;ky; esa fopkj/khu gksuk rFkk blds vfrfjDr bl vkosnu i= esa of.kZr vU; rhu okn Hkh Jheku~ th ds U;k;ky; esa izLrqr gksuk vkSj fopkj/khu gksuk lgh gS rFkk buesa rkjh[k isf'k;ka 20-12-2004 fu;r gksuk Hkh lgh gS vr% Lohdkj gS] 'ks"k va'k fl izdkj ls of.kZr gS] xyr gSA vr% vLohdkj gSA ;g dguk xyr gS fd mijksDr pkjksa okn ,d gh fo"k; oLrq ls laca/k j[krs gks rFkk izfroknhx.k Hkh ,d gh gksA izLrqr nkok esa rFkk nkok la[;k ,oa nkok la[;k 93@2001 esa izfroknhx.k leku gS fdUrq nkok la[;k 94@2001 esa izfroknhx.k leku ugha gSA ;g dguk xyr gS fd mijksDr pkjksa oknksa esa izfroknh dh lk{; ,d leku gh gksuh gksA mijksDr pkjksa oknksa dh lquokbZ vyx&vyx fd;s tkus esa fdllh izdkj dh dksbZ dkuwuh ck/kk ugha gS vkSj u gh buesa fu.kZ;ksa esa dksbZ fHkUurk mRiUu gksus dh fdafr ek= gh laHkkouk gSA mijksDr pkjksa oknksa dks U;k;fgr esa lesfdr fd;k tkuk fdllh Hkh :i esa vko';d ugha gSA pkjksa oknksa dh lquokbZ lkFk&lkFk fd;s tkus esa oknh dks dksbZ vkifRr ugha gSA"

6. In reply some additional objections were also raised which reads as under :-

"fo'ks" k dFku

1- ;g fd vijksDr pkjksa okn pkj vyx vyx izksuksV o vU; lacaf/kr izyys[kksa ds vk/kkj ij izLrqr fd;s x;s gSa ftudh jkf'k loZFkk fHkUu fHkUu gSA lgk;rk;sa Hkh fHkUu&fHkUu gSA nok la[;k 96@2001] 95@2001] 93@2001 ,oa 94@2001 esa oknh dh lk{; iw.kZ gks pqdh gS rFkk izfroknh lk{; esa mijksDr pkjksa nkos py jgs gSA ,slh fLFkfr esa mijksDr noksa dks lesfdr fd;k tkuk fdlh Hkh :i esa U;k; laxr ugha dgk tk ldrkA

2- ;g fd mijksDr pkjksa noksa dh fo" k; oLrq izR; {k :i ls vkSj lkjHkwr :i ls leku ugha gSA

3- ;g fd /kkjk 10 lhihlh esa okn dh lquokbZ LFkfxr djus dk izko/kku gS] lesfdr djus dk dksbZ izko/kku ugha gS blfy, Hkh izfroknh dk vkosnu fujLr gksus ;ksX; gSA

4- ;g fd izfroknh dk ;g vkosnu eqdnesa dks foyfEcr djus dh nqHkkZouk ls izLrqr fd;k gS tks [kkfjt fd;s tkus ;ksX; gSA"

7. The admitted facts are that all the four civil suits are pending in the Court of Additional District Judge No. 1, Sikar and are going on in evidence of defendant and further the respondents-plaintiffs have no objection for hearing of suits simultaneously.

8. On 18.7.2005 the Additional District Judge, Sikar rejected the application for consolidation on the ground that when the plaintiffs are different in all the four civil suits, cause of actions are different and amounts are different and further merely because defendants are common, such civil suits cannot be consolidated as there is no such provision in Section 10 Civil Procedure Code or any other provisions of Civil Procedure Code to consolidate such civil suits. Therefore, the said application was dismissed. The order dated 18.7.2005 is reproduced hereunder:-

"odqyk; mi0A cgl nj0 v0 /kkjk 10 o 151 lhihlh ij lquh xbZA i=koyh dk voyksdu fd;kA lHkh pkjksa oknksa esa oknh vyx vyx gSa] dkWt vkWQ ,D'ku dh rkjh[k o jkf'k Hkh vyx vyx gSA ek= izfroknh ,d gksus ls ,sls izdj.k dUlksfyMsV ugha fd;s tk ldrs ftuesa oknh vyx gksA lsD'ku 10 lhihlh esa ldsfdr lacaf/kr izko/kku ugha gS u lhihlh ds vU; fdlh izko/kku ds rgr ,sls izdj.kksa dks lesfdr fd;k tk ldrk gSA vr% izkFkZuk i= [kkfjt fd;k tkrk gSA i=koyh okLrs lk{; izfroknh fnukad 29-8-05 dks is'k gksA lHkh xokg mi0 jgsaA mHk; i{k ds fuosnu ij yach rkjh[k ckotwn iqjkus izdj.k ds nh xbZ"

9. This Court way back, in 1959 in a case reported in *Hans Raj v. Firm Hazari Mal*

Dipa, ¹ considering the conflicting judgments of various High Courts, has agreed with the view of Calcutta and Allahabad High Courts that a civil court is having inherent power to consolidate the civil suits. Again this Court in a case reported in *Jai Kishan v. Bajranglal*, ² has held that in Civil Procedure Code there is no specific provision for consolidation of proceedings but it may be taken to be a settled principle of law that the courts are competent to consolidate proceedings in the exercise of their inherent powers.

10. That in a judgment in *Chitivalasa Jute Mills v. Jaypee Rewa Cement*, ³ the Supreme Court has observed that object of consolidation is to save the parties from the possibility of two courts recording findings inconsistent with each other and conflicting decrees as well as further to save from multiplicity of proceedings, delay and expenses and has held that the Civil Procedure Code does not specifically speak of consolidation of suits but the same can be done under the inherent powers of the Court flowing from Section 151, Civil Procedure Code. The Court has further held that complete or even substantial and sufficient similarity of the issues arising for decision in two suits where parties are substantially the same, enables the two suits being consolidated for trial and decision. Para Nos. 9 to 12 of the said judgment are reproduced hereunder for ready reference:-

"9. On the facts averred in the two complaints filed by the two parties before two different courts, it is clear that the parties are substantially the same, Jaypee Rewa have alleged and Willard India or Chitivalasa Jute Mills do not deny that Chitivalasa Jute Mills is nothing but a division of Willard India Limited. The fact remains that the cause of action alleged in the two complaints refers to the same period and the same transactions i.e. the supply of jute bags between the period of 7.01.1992 and 31.12.1993. What is the cause of action alleged by one party as foundation for the relief prayed for and the decree sought for in one case is the ground of defense in the other case. The issues arising for decision would be substantially common. Almost the same set of oral and documentary evidence would be needed to be adduced for the purpose of determining the issues of facts and law arising for decision in the two suits before two different courts. Thus, there will be duplication recording of evidence if separate trials are held. The two courts would be writing two judgments. The possibility that the two courts may record findings inconsistent with each other and conflicting decrees may come to be passed cannot be ruled out.

12. The two suits ought not to be tried separately. Once this suit at Rewa has reached the Court at Visakhapatnam, the two suits shall be consolidated for the

purpose of trial and decision. The trial Court may frame consolidated issues. The Civil Procedure Code does not specifically speak of consolidation of suits but the same can be done under the inherent powers of the Court flowing from Section 151, Civil Procedure Code. Unless specifically prohibited, the civil Court has inherent power to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. Consolidation of suits is ordered for meeting the ends of justice as it saves the parties from multiplicity of proceedings, delay and expenses. Complete or even substantially and sufficient similarity of the issues arising for decision in two suits enables the two suits being consolidated for trial and decision. The parties are relieved of the need of adducing the same or similar documentary and oral evidence twice over in the two suits at two different trials. The evidence having been recorded, common arguments need to be addressed followed by one common judgment. However, as the suits are two, the Courts may, based on the common judgment, draw two different decrees or one common decree to be placed on the record of the two suits. This is how the trial Court at Visakhapatnam shall proceed consequent upon this order of transfer of suit from Rewa to the Court at Visakhapatnam.

11. In view of the settled position of law narrated hereinabove it has not been disputed that the Civil Court has no inherent powers to consolidate the civil Suits. But whether the circumstances exist in the present four civil suits to consolidate them, there is a dispute.

12. The submission of the Counsel for the petitioner is that the trial Court has failed to exercise its jurisdiction by not consolidating the four civil suits wherein the subject-matter is common, issues in the civil suits are common, evidence which has to be led by the petitioners-defendants will be common and further in case the civil suits are not consolidated there is a possibility of contradictory judgments. In support of the aforesaid submission the Counsel for the petitioner has cited *Nankoo Nathia v. Nagnur Parmeshwaramma & Ors.*, ⁴ *Gupta v. East Asiatic Co.* ⁵ *M/s. Bokaro & Ramgur Ltd v. State of Bihar & Ors.*, AIR 1973 Patna 340, *Bharat Nidhi Ltd., Delhi v. Shital Prasad Jain*, AIR 1981 Delhi 251.

13. Counsel for the contesting respondents submits that in the present case the parties are different and burden of proof is entirely on different persons, therefore, the civil suits have rightly been not consolidated, more particularly in view of the fact when the respondents-plaintiffs have consented for hearing of all four civil suits simultaneously. It was also submitted that all the four civil suits are pending in the same court and

further the evidence of plaintiffs have been closed and the suits are going on for evidence of the petitioners-defendants. Counsel for the contesting respondents relied on a judgment of Karnataka High Court reported in *B.S. Bhagwan Singh & Ors. v. Smt. Sharda Bali*,⁶ and submitted that the trial Court has not committed any illegality in not consolidating the civil suits where the plaintiffs are different, cause of actions are different and burden of proof is on different persons. Therefore, the writ petition be dismissed.

14. Heard learned Counsel for the parties, perused the record of the writ petition and considered the rival submissions of the parties.

15. In AIR 1953 Hyderabad 130 (supra), the issue was of consolidation of cross suits. Para 8 of the said judgment reads as under:-

The question that has to be considered is as to whether having regard to the nature of the suits, they could be consolidated together. We went through the plaints in both the cases. In our opinion, having regard to the nature of the suits they could be consolidated. The contention is that under Section 648, Hyderabad Civil Procedure Code only cross-suit could be consolidated and as these are not cross-suits, these could not be consolidated. It is true that both these suits are of the plaintiff herself and these are not cross-suits. So Section 648, Hyderabad Civil Procedure Code would not be applicable. But we do not agree with the contention of the learned Advocate that the court has no inherent power to consolidate the suits of this nature which are not cross-suits. It may be pointed out that every court whether a Civil Court or otherwise, must therefore, in the absence of express provision for the purpose be deemed to possess inherent powers in its very constitution all such powers as are necessary to do the right and undo the wrong in the course of the administration of justice. Admittedly, excepting Section 648, Hyderabad Civil Procedure Code. There is no other specific provision to that effect. In the absence of express provision the Court must be deemed to have inherent power and in this contention it has the inherent power to determine how its proceedings should be conducted.

16. Since, the issue in the said judgment was consolidation of cross- suits, therefore, the same is not applicable in the facts and circumstances of the present four different civil suits.

17. In case reported in *P.P. Gupta v. East Asiatic Co.* (supra), it has been held that Section 10, Civil Procedure Code does not intend to take away the inherent powers of the Court to consolidate in the interest of justice in appropriate cases different suits between same parties in which the manner in issue is substantially and directly the same. Para 20 is reproduced hereunder for ready reference.

It has been the settled view of the High Courts all over India that a Court has an

inherent power to consolidate suits in appropriate cases. The very nature of the principle of consolidation implies that there is a similarity or identity of the matter in issue in different suits between the same parties which should be decided by the Court once and for all. The object of consolidation is to avoid multiplicity of litigation between the same parties whenever the matter in issue is substantially and directly the same. Not only is consolidation considered eminently desirable in appropriate cases but the High Courts have gone further and interfered with the orders of the subordinate courts refusing to consolidate different suits on the ground that such refusals were unjustifiable. In *Nehal Singh v. Ali Ahmed*,⁸ a Division Bench of the Calcutta High Court allowed an appeal against an order of the trial Court refusing to consolidate several cases pending before it. The Court observed, "the first Court refused to take all the cases together, giving a most unsatisfactory reason for such refusal. We think that the subordinate Judge has failed to give good reason for refusing the prayer of the petitioner, and by his refusal he has caused a considerable degree of confusion in the disposal of these appeals. We think for the ends of justice and the proper determination of the question between the parties, that all these cases should be tried together, and all the evidence which is put forward in them, should be looked to..." In this case the High Court passed an order directing the consolidation of several cases between the same parties "relating to the same matter".

18. In the instant case neither the parties are same nor cause of action is same, nor the burden of proof is on the same person, but burden of proof is on the different respondents-plaintiffs. Therefore, it cannot be said that the matter in issue is substantially and directly the same between the same parties.

19. In AIR 1973 Patna 340 (supra), it has been held that the main object of consolidation is to avoid multiplicity and to eliminate chances of conflicting decisions on the same point. Para 6 of the said judgment is reproduced hereunder for ready reference:

6. There are a larger number of decisions of different High Courts which have well settled the proposition that a Court has inherent right to order consolidation of suits in appropriate cases. To refer to the decisions of this Court alone the earliest one is the one reported in ILR 1 Patna 669 : AIR 1922 Patna 566(1) supra. The learned Judges of this Court relied on this very principle and reference was made to the case of *Kalicharan Dutt v. Surja Kumar Mondal*,⁸ The point which has been raised in the instant case before me was the very point raised before the learned Judges, namely, that the jurisdiction cannot be exercised without the consent of the parties. The argument was repelled and Courts, J., with whom Das, J., agreed, observed that, if the Court has

jurisdiction to consolidate under Section 151 of the Civil Procedure Code it must have that jurisdiction without the consent of the parties for, if this were not so, it would not have inherent jurisdiction to consolidate at all, for, consent of the parties cannot confer jurisdiction that does not exist. In another case, *Ramavtar Prasad Verma v. Satdeo Lal*,⁹ a learned Single Judge of this court held that, in deciding whether two suits should be consolidated or not the whole question is whether or not in the long run it will be expeditious and advantageous to all concerned to have the suits tried together as analogous cases. It was also observed that, where it appears that there is sufficient unity or similarity in the matter in issue in the two suits to warrant their consolidation, it is a fit case for such consolidation. The learned Judge further held that, if in such circumstances the trial Court refuses consolidation, then, it is a fit case for such consolidation. The learned Judge further held that, if in such circumstances the trial Court refuses consolidation, then it is a fit case in which the High Court can interfere in its revisional jurisdiction. Reliance was placed on the decision in the case of Hamid, AIR 1933 Patna 61 (supra). In *Harinarain Choudhary v. Ram Ashish Singh*,¹⁰ another learned Judge of this Court held that the Court has inherent power *ex debito justitiae* to consolidate suits where it is in the ends of justice to do so to avoid needless expense and inconvenience to parties. The learned Judge adopted and reiterated the principles laid down in the earlier cases that in deciding whether two or more suits are to be consolidated or not the whole question is whether or not in the long run it will be expeditious and advantageous to all concerned to have the two suits tried together as analogous cases and where it appears that there is sufficient unity or similarity in the matter in issue in the suits, or that the determination of the suits rests mainly on a common question it is convenient to have them tried as analogous cases. Reliance was placed on the earlier two cases of Mohammad Afzar, AIR 1922 Patna 566(1) and Ramavtar Prasad Verma (supra). I respectfully concur in the view expressed by the learned Judge and I would like to add further that the question to be considered should also be as to whether or not the non-consolidation of the two or more suits is likely to lead apart from multiplicity of suits, to leaving the door open for conflicting decisions on the same issue which may be common to the two or more suits sought to be consolidated. In my view, the convenience of the parties and the expenses in the two suits are subsidiary to the more important consideration namely, whether it will avoid multiplicity of suits and eliminate chances of conflicting decisions on the same point.

20. In AIR 1981 Delhi 251 (supra), it has been held that where the parties in the three suits are different, claims therein absolutely different, consolidation need not to be ordered. Para 12 of the judgment is reproduced hereunder for ready reference –

"12. These principles are well-settled. However, the ratio of the above-cited case is not applicable to the facts of the present case. Summary of the allegations in the three suits, as noticed above, clearly shows that the claims therein are entirely distinct and independent of each other. The plaintiff in suit No. 166 of 1977 is Bharat Nidhi Ltd., whereas in the other two suits it is PNB Finance Ltd. Defendants in the three suits are also different. In suit No. 166 of 1977 only the applicant is a defendant whereas in the other two suits apart from him there are other defendants as well. On the facts of these cases where the defendants are not common and the claims are different it cannot be said that there is similarity in the matter in issue in all the three suits. Defendants other than the applicant, his wife and son are entitled to withhold their consent for consolidation of the suits. It is true that in those cases where parties are common and the matter is absolutely similar, without their consent to avoid multiplicity of suits and to eliminate chances of conflicting decisions on the same point, consolidation of the two or more suits can be ordered. The three suits brought by the plaintiffs *prima facie* are based on different transactions of moneys allegedly given to the applicant-defendant. Apart from the defence of the applicant it cannot be said that the matters in issue are common in all these cases. The parties are also not common and as such even if they consent to consolidation of the suits the same cannot be done."

21. Since, neither the parties are common nor matter is absolutely similar, therefore, the said judgment is of no help to petitioners.

22. In the present case neither the parties are substantially the same nor cause of action is same nor burden of proof of issues is on the same plaintiff-respondents nor there is substantial or sufficiently similarity between substantially the same parties, therefore, the judgment of Supreme Court and none of the above mentioned judgments cited by the petitioners is applicable to the facts and circumstances of the present case.

23. The judgment cited by the counsel for the contesting respondent reported in AIR 1990 Karnataka 222 (supra), it has been held when the burden is entirely on two different persons to establish their title, question of leading common evidence in such cases does not arise, Para No. 5 of the said judgment is reproduced hereunder for

ready reference :

"5. In that view of the matter, the trial Court was clearly in error in clubbing the two cases together for disposal. When the burden is entirely on two different persons to establish their title, question of leading common evidence in such cases does not arise."

24. In my view, here in the instant case also the burden is entirely on different plaintiffs, therefore, the question of leading the common evidence does not arise.

25. There are other judgments of this Court on the inherent power of civil court and object of the consolidation of the civil suits. One is reported in *State of Rajasthan v. Motiram and Anr.* ¹¹ *Babulal v. Lachha Ram* ¹² *State of Rajasthan v. Motiram* (supra) is reproduced hereunder for ready reference :

"27. The learned Counsel for the plaintiff respondent also contended that since the two suits were consolidated during the course of the trial, the trial Court should have passed one judgment and decree and the State should have filed one appeal instead of two appeals. The learned Counsel was however not able to point out how the two separate judgments and decrees and the two appeals therefrom prejudiced the plaintiff and resulted in failure of justice. He was also not able to show how separate judgments and decrees could be deemed to be void or ineffective. It may be mentioned here that the Civil Procedure Code provides no specific provision for consolidation of suits. It is under the inherent powers of the Court under Section 151 Civil Procedure Code that the suits are consolidated. The whole object behind consolidation of suits is to avoid multiplicity of proceedings and to prevent delay and avoid unnecessary costs and expenses. By consolidation, it cannot be inferred that the Court after consolidation ceased to have jurisdiction to dispose of consolidated suits separately. It is difficult to understand that when the Court before consolidation could have dealt with them separately without any objection, then after consolidation, the court would be debarred from doing so even if separate decisions are desirable for the sake of convenience to the parties as well as to the Court. It is true that ordinarily the court after consolidation should dispose of consolidated suits by one judgment and decree but that does not mean that if separate judgments and decrees are passed, such decrees are illegal or void or ineffective. The fact that separate judgments and decrees are passed in consolidated suits, at best shows an irregularity in following a correct and ideal

procedure and not lack of jurisdiction. This contention of the learned counsel for the plaintiff has, therefore, no force."

26. Para 7 of judgment reported in *Babulal v. Lachha Ram (deceased by LR's)* (supra) is reproduced hereunder for ready reference :-

"7. Learned Counsel for the opposite party vehemently opposed the above application and supported the order of the learned trial Court. A few decisions have been cited on behalf of both the parties. In *Motilal Chunilal Rathore v. Pani Bai*,¹³ it was held that when two suits are pending in the same court between the same parties and having the same matter in issue, public policy of early finality would call for exercise of inherent powers under Section 151, Civil Procedure Code to direct analogous hearing. In *Peer Gulam Naseer v. Mst. Rehmani*,¹⁴ this court analyzed the provisions of Sections 10 and 151 Civil Procedure Code with regard to the consolidation of two suits and it was held that there is no inherent conflict in the principles underlying the Section 10 Civil Procedure Code and the inherent powers of the Court to consolidate different suits. The object of both these sections is to prevent multiplicity of litigation between the same parties. The order of consolidation of suits is not governed by any specific provision of Civil Procedure Code but it falls within the ambit of the inherent powers of the Court. In *Ved Prakash v. Amar Singh*,¹⁵ the facts were that two suits were filed by two alleged purchasers on the strength of independent agreement to sell in their favour in respect of the same land. To avoid two decrees, two suits were ordered to be consolidated and disposed of together."

27. Thus, Hon'ble Supreme Court in *Chitivalasa Jute Mills v. Jaypee Rewa Cement* (supra), and in the aforesaid two judgments this court has held that the whole object behind consolidation is to avoid multiplicity of proceedings and to prevent delay and to avoid unnecessary cost and expenses and further to avoid conflict in the findings/judgments in case of complete or even substantial and sufficient similarity of the issue arising for decision.

28. The upshot of aforesaid discussion of judgments is that some of the relevant circumstances for consolidating the civil suits are as follows:-

- (i) The parties are substantially same.
- (ii) Complete or even substantial and sufficient similarity of the issues arising for decision in two suits.

(iii) Common evidence is to be led, if parties are substantially the same, if only one party is common then burden of proof of facts in issue will be on different person and no common evidence can be led.

(iv) The consolidation in the aforesaid circumstances will fulfill the object of consolidation. Any other circumstances may be relevant then also the object of consolidation will be decisive for passing appropriate order.

29. Keeping in view the aforesaid relevant circumstances and object of consolidation, there is no substantial similarity between the parties and issues involved as present suits are between different parties wherein cause of actions arose on different dates, burden of proof is on different person and further the consent given by the respondent-plaintiff for simultaneous hearing of the four civil suits pending before the same court, which will totally eliminate the chances of conflicting judgments. I am of the further view that no other relevant circumstances exist for consolidation of civil suits and non-consolidation will not defeat aforesaid object.

30. The trial Court has not committed any error in not consolidating the civil suits. The trial Court has acted within its parameters.

In view of the above, the writ petition fails and is hereby dismissed.

Petition dismissed.

Cases Referred.

1. 1959 RLW 451
2. 1961(11) Raj LR 1173
3. 2004(3) SCC 85
4. AIR 1953 Hyd 130, P.P
5. AIR 1960 All 184
6. AIR 1990 Kar 222
7. 15 Suth W.R. 110
8. 1913(17) Cal WN 526
9. AIR 1939 Pat 30
10. AIR 1957 Pat125
11. AIR 1973 Raj 223
12. (deceased by LR's), 1998(3) All India High Court Cases (Raj) 2259
13. AIR 1992 Ori 155
14. 1991(1) Raj. LW 279
15. 1996(1) Raj. LW 339