

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 1075 of 2013

Date of Decision: 30.04.2015

Kanwal Preet Singh

.....Petitioner

Vs.

Jasbir Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Gagan Oberoa, Advocate,
for the petitioner.

None for respondent No. 1.

Mr. P.S. Mattewal, Addl., A.G., Punjab,
for respondents No. 2 and 3.

Mr. R.S. Sidhu, Advocate,
for respondents No. 4 to 6 and 16.

SABINA, J.

Petitioner has filed this petition challenging the order dated 12.02.2013, whereby application moved by the petitioner under Order 9 Rule 7 of the Code of Civil Procedure, 1908 (for short 'CPC'), was dismissed.

Learned counsel for the petitioner has submitted that respondent No. 1 has filed suit for declaration qua the building in question. Petitioner has been arrayed as defendant No. 7. Petitioner moved an application for setting aside the *ex parte* proceedings against him. Counsel for the plaintiff had made a statement that he had no objection if the application was allowed, subject to payment of costs. In fact the suit had been filed by the plaintiff for the benefit of defendants No. 6 and 7 also.

Learned counsel for the petitioner has further submitted that he may be

permitted to join the proceedings from the stage as it exists today.

Learned counsel for the State as well as learned counsel for respondents No. 4 to 6 and 16, on the other hand, have opposed the petition.

In the present case, respondent No. 1 has filed suit for declaration.

Para No. 9 of the amended plaint reads as under:-

“That the defendant Nos. 8 to 16 have been impleaded as defendants in the present suit as natural heirs of Karamjit Kaur widow of Jagjit Singh (deceased). Defendant Nos. 6 and 7 could not join the present suit as such they have been impleaded as defendant Nos. 6 and 7 but the present suit is being filed for the benefit of defendant Nos. 6 and 7.”

A perusal of the impugned order reveals that the counsel for the plaintiff had stated that he had no objection, if the application moved by the petitioner under Order 9 Rule 7, CPC, was allowed. Suit has been filed by the plaintiff for the benefit of the petitioner also.

In these circumstances, the learned trial Court fell in error while dismissing the application moved by the petitioner, Moreover, learned counsel for the petitioner has submitted that the petitioner wants to join the proceedings at the stage as it exists today.

Accordingly, this petition is allowed. The impugned order dated 12.02.2013 is set aside. Consequently, petitioner is directed to join the proceedings at the stage as it exists today.

**(SABINA)
JUDGE**

April 30, 2015
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