

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.1371 of 2015
Date of decision:26.02.2015

Duni Chand

....Petitioner

Versus

Vijay Kumar & others

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Arvind Bansal, Advocate, for the petitioner.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition, is to the order dated 05.01.2015, whereby the Civil Judge (Jr.Divn.) Kaithal has dismissed the application of the plaintiff-petitioner, filed under Order 1 Rule 10 CPC for impleading 56 persons as party/defendants.

Counsel for the petitioner submits that being the plaintiff, he is *dominus litis* of the case and the Trial Court was not justified in dismissing the application, especially since in the written statement filed by the Wakf Board, the plea taken was that the said persons were in possession as tenants of the said Board and the property had been leased out on 22.01.2012.

The reasoning which has prevailed with the Trial Court is that there was a delay and lapse on the part of the plaintiff since the written statement was filed on 17.02.2012 whereas the application was filed almost 2 ½ years later, i.e. on 06.09.2014, at a belated stage, when the case was fixed for evidence and the witness of the Wakf Board had already deposed as PW1. It was, accordingly, held that the plaintiff was wanting to delay the proceedings and therefore, the application was dismissed.

A perusal of the plaint filed by the petitioner would go on to show that it was a suit for declaration, mandatory and permanent injunction regarding the land on which permission for construction of a rice sheller had been taken and there was a dispute *inter se* the plaintiff and the defendants who are real brothers and partners of M/s Shri Krishna Industries. The eventual relief which was sought is that the defendants had been requested not to interfere with the 80% tenancy of the plaintiff in the moveable and immoveable property of the firm and the NOC which had been issued in favour of the defendants No.2 & 3 by the Haryana Wakf Board. Relief is also sought against respondents No.1 & 2, to return back the machinery and other articles lifted from the site and from raising new construction by demolishing the construction of the suit property.

There is no relief of possession asked for against the respondents which were sought to be added and who had been put in possession by the Wakf Board, as tenants. Even otherwise, in the suit, when no relief is claimed against the persons, such persons are not necessary parties to be impleaded. Resultantly, keeping in view the above, this Court is of the opinion that no ground is made out to implead the said persons as defendants.

Accordingly, finding no merit in the present revision petition, the same is, hereby, dismissed.

26.02.2015
sailesh

(G.S.SANDHAWALIA)
JUDGE