

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No. 1573 of 2015 (O&M)

Date of decision : 11.5.2015

Boota Singh

... Petitioner

VS

Parmod Kumar and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

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

Rajesh Bindal, J.

Challenge in the present petition is to the order dated 28.1.2015 passed by the learned Court below whereby the application filed by the petitioner for being impleaded as defendant in the suit filed by respondent nos. 1 to 3/ plaintiffs, was dismissed.

In the case in hand, respondent nos. 1 to 3/plaintiffs filed a suit for declaration claiming that they are owners in possession of the suit property and further for permanent injunction restraining respondent nos. 4 and 5/ defendants from alienating any portion thereof. It is claimed that the suit property was purchased by them from respondent nos. 4 and 5 on 21.5.2009. The sale-deed was executed by attorney of respondent nos. 4 and 5. Subsequent thereto, part of the suit property was sold by respondent nos. 4 and 5 to the petitioner. It is at this stage that the suit was filed. In the aforesaid suit, the petitioner filed application for being impleaded as defendant seeking to protect his right in the part of the property. The application having been dismissed, the order has been impugned in the present petition.

Learned counsel for the petitioner submitted that once part of the suit property had been sold by the owner thereof to the petitioner and same is subject matter of suit filed by respondent nos. 1 to 3, who were claiming themselves to be owners thereof on the basis of sale-deed

registered in their favour, the petitioner becomes necessary party in the litigation as the Court will have to determine the issue between the parties as to who is the rightful owner. This will avoid multiplicity of litigation. The onus of the issue that the petitioner is owner of the part of the property will be on him. Hence, the petitioner is a necessary party.

After hearing learned counsel for the petitioner, I do not find any reason to interfere in the impugned order. The plaintiff is the master of his suit. It is his wish against whom, he wants to contest the same. No one can impose himself to be defendant on him, the plaintiff being the *dominus litis*. The petitioner is seeking ownership on the part of the suit property. The plaintiffs are claiming ownership of the entire property mentioned in the suit. They have their independent right and to succeed, will have to establish the same. The petitioner cannot be said to be necessary party to be impleaded in a suit filed by respondent nos. 1 to 3 compelling them to contest the same against him. There is no error in the order passed by the learned Court below.

Accordingly, the petition is dismissed.

11.5.2015
vs

(Rajesh Bindal)
Judge