

CR-1825-2015 (O&M)

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

**CR-1825-2015 (O&M).
Decided on: March 31, 2015.**

Harnek Singh

..... Petitioner(s)

Versus

Baldev Singh and others

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Inderjit Sharma, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL)

Petitioner is aggrieved by the order dated 18.2.2015, passed by the Civil Judge (Jr. Divn.), Bathinda, dismissing the application of the petitioner under Order 1 Rule 10 CPC, for impleading him as a defendant to contest the suit filed by the plaintiffs-respondents No.1 to 3 against the defendants-respondents No.4 to 12.

With the assistance of counsel for the petitioner, I have gone through the plaint which indicates that sons of Sham Singh have filed a suit for possession of agricultural land mentioned in heading of the plaint claiming title in the property in dispute on the ground that the original owner of the property Jagar Singh had executed a Will in their favour. The alienation of major portion of the property in dispute by Jagar Sngh was set aside by a decree dated

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31.5.1955 holding that some of the sales were not for legal necessity but sale regarding other portion i.e. 45 bighas was found to be for legal necessity.

So far as applicant-petitioner is concerned, he has opted to file an application under Order 1 Rule 10 CPC claiming himself to be son of Jagar Singh. He has alleged in his application that Jagar Singh has been wrongly described by the plaintiffs-respondents to have died issueless on 31.8.2008 leaving a registered Will in favour of the plaintiffs. The applicant claims that he being real son of deceased Jagar Singh has got interest in the property as such, he is a necessary party.

Counsel for the petitioner submits that the petitioner being son of Jagar Singh has got a right in the property in dispute on the basis of natural inheritance. He claims that the property being ancestral in the hands of Jagar Singh could not have been alienated even by a Will also in favour of the plaintiffs-respondents No.1 to 3 being coparcenary property.

I have heard the learned counsel for the petitioner and gone through the impugned order. It is settled principle of law that the plaintiff in a civil suit is dominus litis of his case. The plaintiffs have not claimed any right or interest against the applicant. Any judgment passed in civil suit filed by the plaintiffs will not, in any manner, prejudice the rights of the petitioner he having not been impleaded as a party. Since no relief has been claimed against the

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petitioner he, at the stage, when evidence of the plaintiffs is being produced cannot be permitted to be impleaded as a party

In view of said circumstances, I do not find any ground to interfere in the impugned order passed by the trial Court dismissing the application of the petitioner under Order 1 Rule 10 CPC. It is observed that dismissal of application of the petitioner will not prejudice his rights to claim title in the property which is the subject matter of the suit in case permissible under law.

March 31, 2015.
rka

(M.M.S. BEDI)
JUDGE