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

CR No.179 of 2014

Date of decision: March 24, 2015

Sukhdev Singh and another

.....Petitioners

Versus

Vijay Gupta and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. G.S. Punia, Senior Advocate with
Mr. P.S. Punia, Advocate
for the petitioners.

Mr. Rakesh Chopra, Advocate
for the respondents.

SABINA, J

Petitioners have filed this petition challenging the order dated 04.01.2014, whereby application moved by the petitioners under Order 1 Rule 10 of Code of Civil Procedure, 1908 ('CPC' for short), was dismissed.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

Trial Court while dismissing the application moved by the petitioners under Order 1 Rule 10 CPC, has held as under:-

“3. After considering the rival contentions of ld.counsel for the parties, this court is of the considered view that as per the case of the plaintiff they were to supply certain iron goods in U.P. And accordingly the said goods were booked and

entrusted to the defendants for delivering the same at U.P. whereby the defendant issued G.R on 29.4.2008. The goods were loaded in the truck provided by the defendants. However, the goods were not delivered at its destination. The plaintiffs even got lodged an FIR to that effect. The defendants have contended that the said goods were stolen by some unknown persons. The whereabouts of the truck driver and cleaner were also not known. The truck was found by the police. Thus, since the circumstances were beyond the control of the defendants and thus the defendants had no liability towards the plaintiff. The liability, if any, is of the truck driver, cleaner or the transport company, provided the truck to the defendants. In view of the above discussed factual matrix, this court is of the considered view that the truck driver, cleaner or J.B. Carriers are not the necessary party to be impleaded in this case for the present defendant can independently claim from the said persons. Moreover, impleading the said persons as a party at this stage will result into de novo trial. Now, the case being at the rebuttal stage, impleading the above-said persons as a party will not be supplemental towards the fair trial or the advancement of justice but will rather prolong the matter for no reason. It is further pertinent to mention here that in case the plaintiffs establishes their case, then the defendants can very well recover the same from the persons liable to them. Thus, finding no merit in the application at this stage and same stands declined.”

Thus, in the present case, respondents have filed a suit for recovery against the petitioners on the ground that

they had entrusted the goods in question to the petitioners for transporting the same to Uttar Pradesh. The case of the plaintiff is that the material was handed over to the petitioners/transport Company. The case of the petitioners was that the truck in question was provided by J.B. Carriers. In these circumstances, learned trial Court rightly held that plaintiffs had no concern with J.B. Carriers or the driver and cleaner of the truck in question as the plaintiffs had entered into a contract only with the petitioners. Merely because the truck belonging to J.B. Carriers was provided by the petitioners, it cannot be said that J.B. Carriers or the driver or cleaner of truck were necessary party for deciding the suit.

No ground for interference by this Court, is made out.

Dismissed.

However, any observations made herein-above will have no bearing on the merits of the case.

**(SABINA)
JUDGE**

March 24, 2015
m.singh