

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 2050 of 2013 (O&M)
Date of Decision: 27.07.2015.

Mohan Singh

.....Petitioner

Versus

Gulshan and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Harish Bhardwaj, Advocate
for the petitioner.

None for respondent No. 1.

SABINA, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 23.1.2013 whereby application moved by the petitioner under Order 1 Rule 10 of the Code of Civil Procedure, 1908 ('CPC' for short) for impleading him as a party to the suit, was dismissed.

Learned counsel for the petitioner has submitted that respondent No. 1 has filed suit for separate possession by way of partition. Petitioner had purchased share out of the suit property vide sale deed dated 28.11.2000 (Annexure P-8). Thus, the petitioner was also a co-sharer qua the suit property and was liable to be impleaded as a party to the suit as the decision of the suit would affect the rights of the petitioners.

None has appeared on behalf of respondent No. 1

despite service.

Respondent No. 1 has filed suit for separate possession by way of partition. During the pendency of the suit, petitioner moved an application under Order 1 Rule 10 CPC for being impleaded as a party to the suit on the ground that he was a co-sharer qua the suit property in view of the sale deed executed in his favour in the year 2000. Thus, in order to become a party to the suit, petitioner had based reliance on the sale deed executed in his favour. Although, the sale deed dated 28.11.2000 (Annexure P-8) was not produced before the Trial Court but the same has been produced on record before this Court. A perusal of the same reveals that respondent No. 2-Satbir and others had executed the sale deed in favour of the petitioner and his brother qua some portion of the suit property. Thus, in view of the execution of the sale deed in his favour, petitioner became a co-sharer in the suit property and can be described to be a necessary party. In case petitioner is not permitted to join the proceedings, his rights would be affected.

Accordingly, this petition is allowed. Impugned order dated 23.1.2013 is set aside. Consequently, application moved by the petitioner under Order 1 Rule 10 CPC (Annexure P-5) , is allowed.

**(SABINA)
JUDGE**

July 27, 2015
Gurpreet