

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 2473 of 2012

Date of Decision: March 17, 2015

Prem Kaur

.....Petitioner

Vs.

Chand Kaur and others

.....Respondents

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

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Present:- Mr.Rakesh Nehra, Advocate
for the petitioner.

Mr. Kulvir Narwal, Advocate
for respondents No.1 and 2.

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

Vide impugned order, an application filed under Order 1 Rule 10 CPC by Chand Kaur wife of Ramphal and Sunita daughter of Chand Kaur has been allowed on the ground that they are also co-sharers alongwith other defendants.

The plaintiff petitioner has filed a suit for permanent injunction against the defendant- respondents No.3 to 6 on the ground that she is owner in possession of 3/7th share in the khasra numbers mentioned in the heading

of the plaint in the land measuring 10 Kanal 12 Marlas situated in the revenue estate of Jhajjar Near Delhi Gate, Jhajjar. It is averred in para 4 of the plaint that all other co-sharers have constructed their houses in the area more than their share and that due to the pendency of the suit for partition and possession, the plaintiff- petitioner could not construct the boundary wall of East and North side of the suit land as such he sought a restraint order against the defendants to stop them from interfering in the construction of the Eastern boundary wall of the plot shown in red colour with alphabet DF in the site plan.

The main grievance of counsel for the petitioner is that the petitioner being dominus litus has got a right to implead opposite party as defendant to seek relief if there is any imminent threat of interference in her rights. In the present case, no relief is being claimed against Chand Kaur and Sunita.

A perusal of the impugned order indicates that respondents No.1 and 2 being co-owners alongwith other defendants have been impleaded as defendants.

Learned counsel for the petitioner submits that the added respondents may cause delay in the trial and they would complicate the issue by raising the pleas of title.

Counsel for the defendant- respondents No.1 and 2 has submitted that defendant- respondents No.1 and 2 who have been impleaded will not raise any claim beyond the claim raised by Ramphal and other

defendants as the added respondents are none else but the wife and daughter of Ramphal. It has also been undertaken that the added defendants will also not claim any title beyond the rights already determined in a separate suit for partition determining the shares.

I have considered the facts and circumstances of this case and I am of the opinion that impleadment of respondents No.1 and 2 as defendants will not, in any manner, prejudice the rights of the petitioner and the apprehension of the plaintiff- petitioner appears to be misconceived in view of the statement made by counsel for respondents No.1 and 2.

In view of the above, the revision petition is dismissed. It will be open to the added defendant- respondents No.1 and 2 to adopt the plea of the defendants already party before the trial Court or to file a separate written statement on the same lines as earlier filed by the defendants impleaded by plaintiff in the original suit.

Parties are directed to appear before the trial Court for further proceedings. Since the proceedings before the trial Court remained stayed w.e.f. the year 2012, it is directed that the trial will be concluded expeditiously.

March 17, 2015
sanjay

(M.M.S.BEDI)
JUDGE