

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.292 of 2015
Date of Decision: October 29th, 2015

Satwinder Singh

...Petitioner

Versus

Ramanjot Kaur & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Gaurav Mohunta, Advocate,
for the petitioner.

Ms.Ravinder Kaur Manaise, Advocate,
Amicus Curiae.

AMIT RAWAL, J. (Oral)

The challenge in the present revision petition is to the order dated 19.11.2014 (Annexure P-1) passed by the Civil Judge (Junior Division), Bathinda, whereby the application under Order 1 Rule 10 read with Section 151 CPC for impleading the petitioner as party in a suit filed by respondent Nos.1 and 2 against Gurdev Singh claiming maintenance allowance on the property owned by him, has been dismissed on the ground that the plaintiff is a *dominus litis*.

Mr.Gaurav Mohunta, learned counsel appearing on behalf of the petitioner-applicant submits that in pursuance to the *ex-parte* judgment and decree dated 19.7.2010, the petitioner had become the owner of the land, on which the charge on account of maintenance is being sought to be

created and, therefore, he is not only interested, but proper and necessary party to defend his right and title and, thus, the trial Court, having not noticed the aforementioned facts, committed illegality and perversity. In support of his contention, relies upon **Thomson Press (India) Ltd. Versus Nanak Builders & Investors P.Ltd. and others,** 2013(2) R.C.R. (Civil) 875.

Ms.Ravinder Kaur Manaise, Advocate appearing as Amicus Curiae to assist the Court on behalf of respondent Nos.1 and 2 submits that the *ex-parte* decree dated 19.7.2010 has been challenged by the respondent-plaintiffs on the ground that Gurdev Singh vendor could not have suffered the decree, much less, sold the land as they have a right and the suit is being contested by the petitioner. In the instant suit, no relief has been sought against Satwinder Singh petitioner and, thus, he is not proper and necessary party for the adjudication of the lis.

I have heard the learned counsel for the parties and appraised the paper book.

Noticing the aforementioned facts, it is revealed that the parties are loggerheads in two independent suits. The respondents are *dominus litus* with Gurdev Singh. Satwinder Singh has stepped into the witness box owing to the sale deed dated 21.1.2013 executed in pursuance to the *ex-parte* judgment and decree dated 19.7.2010 passed in a suit for specific performance of the agreement to sell dated 11.5.2006.

In my view, the ratio decidendi culled out by the Hon'ble Supreme Court in **Thomson Press (India) Ltd.'s case (supra)**, is squarely applicable to the facts of the present case as the dictum of law is direct for

adjudicating of his right and title.

It is a matter of record that petitioner Satwinder Singh is contesting the suit filed by the respondents herein, whereby *ex-parte* judgment and decree dated 19.7.2010 has been sought. The aforementioned facts have not been noticed by the trial Court while declining the application. Even if the doctrine of *dominus litus* is supplied in strict sense, in my view, the right of Satwinder Singh would be seriously prejudiced in case he is not permitted to join as defendant in the suit filed by the respondents.

In view of what has been observed above, the impugned order dated 19.11.2014 (Annexure P-1) is set-aside and the application for impleading the petitioner as defendant is accordingly allowed.

Revision petition is allowed.

October 29th, 2015
ramesh

(AMIT RAWAL)
JUDGE