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

CR No.2971 of 2015

Date of decision: May 01, 2015

Rajinder Kumar and another

.....Petitioners

Versus

Mata Ram and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. A.K. Khubbar, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition under Article 227 of the Constitution of India challenging the order dated 20.01.2015, whereby application moved by the petitioners under Order 1 Rule 10 of the Code of Civil Procedure, 1908 ('CPC' for short), was dismissed.

Learned counsel for the petitioners has submitted that infact, petitioners are in possession of the suit property and have filed a suit for declaration against respondents. Respondent Nos.1 and 2 have filed the present suit for permanent injunction against respondent No.3 without impleading the petitioners as a party. Learned counsel has further submitted that petitioners may not be necessary party, but could be said to be proper party.

In ***Rampat versus Shri Mandir Thakur Dwara at Suhra and others*** 1988(2) Recent Revenue Reports 257, it has been held as under:-

“In the suit for the grant of the permanent injunction, the plaintiff-petitioner is not seeking any relief

against the said institution, rather his claim is that he is in possession of the suit property. In case the Mandir Thakur Dwara claims itself to be the owner of the suit property, that cannot be decided in the present suit. It is not disputed that any decree passed in the suit for the grant of the permanent injunction will not be binding upon the Mandir Thakur Dwara because no relief is being sought by him against it therein.”

In the present case, respondent Nos.1 and 2 have filed suit for permanent injunction against the respondent No.3. Plaintiffs have thus, sought relief of permanent injunction that respondent No.3-Dharmender be restrained from interfering in their possession. No relief has been sought against the petitioners and the decree passed in the suit, filed by respondent Nos.1 and 2 against respondent No.3, will not be binding on the petitioners. In these circumstances, petitioners are not necessary party as question of title is not involved in the present case. Petitioners cannot be said to be proper party also in the facts and circumstances of the present case.

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

Dismissed.

**(SABINA)
JUDGE**

May 01, 2015
m.singh