

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

(115)

CR No.3299 of 2015

Decided on: July 03, 2015.

Sukhwinder

.... Petitioner

Versus

Mohinder Kumar and others

..... Respondents

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

Present: Mr. Ravindra Jain, Advocate,
for the petitioner.

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

This is a civil revision petition under Article 226 and 227 of the Constitution of India for setting aside the order dated 20.03.2015 passed by the Civil Judge (Junior Division), Jagadhri by virtue of which the application of the petitioner under Order 1 Rule 10 CPC was dismissed.

The facts of the present case are that respondent No.1 Mohinder Kumar claiming himself to be owner in possession of a building having basement had filed a suit aggrieved by a legal notice of demolition issued by the Municipal Corporation, Yamunanagar, as Civil Suit No.690 dated 16.05.2008. The matter was compromised after respondent-plaintiff No.1 had demolished a chhaja measuring 1-1/2' x 14'. Respondent No.1-plaintiff has again received a notice from defendants-respondents No.2 to 5 having violated the earlier order dated 25.05.2010. He has again filed a suit dated 21.10.2011.

The grievance of the petitioner is that pursuant to the adjudication of the controversy in a suit, the respondents want a gali to be

closed which is likely to affect the rights of the petitioner as he has been using the said gali. In view of above said apprehension he has filed an application under Order 1 Rule 10 CPC which has been dismissed vide impugned order.

I have gone through the impugned order and the nature of the controversy involved.

It is not the case of the petitioner that there is any connivance of plaintiff-respondent No.1 with defendants-respondents No. 2 to 5 to cause prejudice to the petitioner. The trial Court has rightly observed that the plaintiff is dominus litis of the suit. Since the plaintiff does not seek any relief against the petitioner, any order passed in his suit is not likely to affect the rights of the petitioner.

The trial Court has rightly dismissed the application under Order 1 Rule 10 CPC as he does not appear to be a necessary party.

No ground is made out for interference in the impugned order.

Dismissed without prejudice to the right of the petitioner to claim any right against the plaintiff or defendants-respondents by taking legal proceedings independently.

(M.M.S. BEDI)
JUDGE

July 03, 2015
harsha