

In the High Court of Punjab and Haryana at Chandigarh

CR No. 4664 of 2015

Date of decision: 27.07.2015

Krishan Singh and another

.....Petitioners

Versus

Varinder Kaur Garcha and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.N.G.Sharma, Advocate
for the petitioners.

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SABINA, J

Petitioners have filed this petition under Article 227 of the Constitution of India challenging the order dated 6.7.2015 (Annexure P3) whereby application moved by the petitioners under Order 1 Rule 10 of the Code of Civil Procedure, 1908 ('CPC' for short) for being impleaded as respondents No. 3 and 4, was dismissed .

Learned counsel for the petitioner has submitted that the petitioners are subsequent purchasers. Petitioners were very necessary to be impleaded as party to the suit.

Respondent No.1 has filed suit for declaration and permanent injunction against respondents No. 2 and 3 The said suit was decreed in ex-parte vide judgment/decreed dated 16.10.2006. Thereafter, the defendants moved an application under Order 9 Rule 13 CPC for setting aside the ex-parte judgment/decreed dated

16.10.2006. During the pendency of the said application, petitioners moved an application under Order 1 Rule 10 CPC for impleading them as defendants No. 3 and 4 in the suit. The said application was rightly rejected by the trial Court as, at this stage, the application moved by the defendants under Order 9 Rule 13 CPC was still pending. The main suit has already been decided in ex-parte. It is only, in case, the application moved by the defendants under Order 9 Rule 13 CPC is allowed, the trial Court would be dealing the suit on merits. Hence, at this stage, the application under Order 1 Rule 10 CPC moved by the petitioners was not maintainable and has been rightly dismissed by the trial Court.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

July 27, 2015
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