

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

(116)

**CR No.4992 of 2015 (O&M)
Decided on: August 07, 2015.**

Anil Jaiswal

.... Petitioner

Versus

Satish Chander and others

..... Respondents

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

Present: Mr. S.N. Sharma, Advocate,
for the petitioner.

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

This is plaintiff's revision petition against the order dated 11.05.2015, allowing the application under Order 1 Rule 10 CPC filed by Satish Chander respondent No.1 as a defendant.

Grievance of the counsel for the petitioner is that the suit has been filed by the petitioner pertaining to a property comprised in khasra No.2044/1833 bearing M.C No.2407 whereas respondent No.1 has initiated litigation pertaining to property which bears khasra No.2039/1833 and MC No.2406/1 and claims that there is no property bearing MC No.2407.

The petitioner seems to have not filed any reply to application under Order 1 Rule 10 CPC filed by respondent No.1 before the trial Court as such the trial Court has made an observation that there is dispute regarding identity of the property bearing MC No.2407. Annexure P-4 site plan placed on record reflects that the property with MC No.2407 is the

property which is in dispute is distinct than MC No.2406/1. Had the above said facts been brought to the notice of the Court by availing an opportunity by the plaintiff-petitioner to file the reply, the Court could have appreciated the existence or non-existence of the suit property with MC No.2407. Whether in the garb of impleadment a contention is being sought to be raised by respondent No.1 has also to be considered.

In view of abovesaid circumstances, I am of the opinion that the trial Court should give an opportunity to the petitioner to file reply to application under Order 1 Rule 10 CPC in order to enable the Court to arrive at a fair conclusion regarding the subject matter of the dispute.

This petition is disposed of in limine by setting aside the order Annexure P-1 with a direction to re-consider the matter and decide the application under Order 1 Rule 10 CPC afresh after the plaintiff-petitioner files reply, within a period of one week before the trial Court along with the relevant documents in order to enable the Court to arrive at a just conclusion regarding impleadment. It will be open to the trial Court to arrive at the same conclusion or to dismiss the application, in case the circumstances so warrant.

It is made clear that in order to save the other party from unnecessary expenditure and avoid the delay, this petition has been decided in limine and in case the order is not acceptable to the opposite party, it will be open to them to approach this Court for recalling/review of the order.

(M.M.S. BEDI)
JUDGE

August 07, 2015
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