

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

CR No. 51 of 2013

Decided on: March 03, 2015.

Sandeep Singh and another

.... Petitioners

Versus

Baldev Singh and others

.... Respondents

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

Present: Mr. Beant Singh, Advocate,
for the petitioners.

None for respondents.

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

In a suit filed by the plaintiffs-petitioners for declaration that they are owners in possession of land mentioned in heading of the plaint besides seeking injunction against Baldev Singh and others from dispossessing the plaintiffs, an application under Order 1 Rule 10 CPC was filed by them to implead Amitabh Singh on the ground that he is also having an interest in the property on the basis of alleged sale deed in his favour. The said application under Order 1 Rule 10 CPC has been dismissed.

Learned counsel for the petitioners submits that impleadment of Amitabh Singh is necessary for the just decision of the case.

The suit of the plaintiffs-petitioners is for declaration that the plaintiffs are owners in possession of 52 kanals 4 marlas of land as per their share and that they have become owners in equal shares in 65 kanals 6 marlas of land out of total 117 kanals 10 marlas as per jamabandi for the year 2002-03.

The suit was filed in the year 2005. An application for impleading Amitabh Singh was filed on 17.03.2008 after lapse of three years on the ground that he alleges himself to be purchaser of the suit property. The trial Court has dismissed the application under Order 1 Rule 10 CPC on the ground that Amitabh Singh is allegedly a subsequent purchaser as such he is not necessary party and that the matter can be effectively and

completely adjudicated even in his absence.

Learned counsel for the petitioners submits that as said Amitabh Singh is also interfering in the possession of the petitioners as such he should be impleaded as a party to avoid the multiplicity of litigation.

I have heard learned counsel for the petitioners and gone through the facts and circumstances of the case.

Perusal of the plaint, Annexure P-1, indicates that it was filed on account of the cause of action which accrued against the defendants-respondents on their denial of the rights of the plaintiffs-petitioners. So far as Amitabh Singh is concerned, no relief has been claimed in the original suit. If there is any cause of action against said Amitabh Singh, it is always open to the petitioners to file a fresh suit on the fresh cause of action against him. Even otherwise, in a suit for declaration and injunction filed in the year 2005, it will not be appropriate to implead a new defendant on different cause of action as it will not only delay the matter but will tantamount to impleading a person on the basis of new cause of action.

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

Dismissed, without prejudice to the right of the petitioners to enforce any legal right against said Amitabh Singh in accordance with law.

(M.M.S. BEDI)
JUDGE

March 03, 2015
harsha