

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

CR No.522 of 2013 (O&M)
Date of decision : 04.09.2015

Kulwant Singh

...Petitioner

Versus

Kamaljit Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Vaibhav Narang, Advocate for the petitioner.

Mr. Jagmeet Singh, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

Challenge in the present petition is to the order dated 01.12.2012, whereby application filed by the petitioner-defendant for impleading The New India Assurance Company Ltd. as defendant No.2, owing to the fact, that he has been indemnified by the insurance company in respect of any medical negligence, had been dismissed.

Mr. Vaibhav Narang, learned counsel appearing on behalf of petitioner-defendant submits that suit has been filed for claiming damages on account of medical negligence. Since petitioner has been indemnified, rightly so application for impleading The New India Assurance Company Ltd. as defendant No.2, was filed. He further submits that trial Court, has, committed illegality in dismissing the application by applying the ratio decidendi of “Dominus Litis”. The contention of the respondent as noticed by the trial Court

is that dispute is between the plaintiff and the defendant and no relief has been sought against insurance company and therefore application was not maintainable and, therefore, has been dismissed.

I have heard learned counsel for parties and appraised the paper book.

Insurance company has indemnified the petitioner for any medical negligence in case the petitioner is embroiled in any litigation. Since the petitioner has been arrayed as defendant in suit for damages, he cannot be prevented to seek impleadment of the New India Assurance company as co-defendant.

In my view, impugned order suffers from illegality and perversity for the reasons that there is privity between the petitioner and The New India Assurance Company Ltd. which sought to be impleaded as defendant No.2 and in case Court arrives at a finding that averments in the suit have been proved, the petitioner would be indemnified by the insurance company for the alleged damages and in case insurance company is not permitted to be impleaded, the petitioner-defendant would suffer irreparable loss.

Keeping in view aforementioned circumstances, impugned order dated 01.12.2012 is set aside. Application Annexure P-2 is allowed. Insurance company, namely, The New India Assurance Company Ltd. Late G.M. Chowk, Park Road, Mansa is impleaded as defendant No.2.

With the aforementioned observation, present civil revision petition is accordingly allowed.

04.09.2015

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**(AMIT RAWAL)
JUDGE**