

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 5696 of 2013 (O&M)
Date of Decision : 27.01.2015

Satinder Kumar and anotherPetitioners

Versus

Punjab National Bank and anotherRespondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. Puneet Gupta, Advocate
for the petitioner.

Mr. R.S. Bhatia, Advocate
for respondent no. 1.

None for respondent no. 2.

R.P. Nagrath, J. (Oral)

CM No. 385-CII of 2014

Application is allowed as prayed for.

CM No. 386-CII of 2014

Application is allowed and amended memo of parties is taken on record.

CM No. 387-CII of 2014

Application is allowed as prayed for.

CR No. 5696 of 2013

Petitioner has invoked the revisional jurisdiction of this Court under Article 227 of the Constitution of India seeking to set aside order dated 23.04.2013 (Annexure P-5) passed by the trial

Court whereby application under Order I Rule 10 read with Section 151 CPC was allowed and respondent No. 2 was ordered to be impleaded as co-plaintiff.

The suit was filed by the petitioners seeking declaration that they are owners of the locker no. 708 opened by Smt. Sudha Rani (deceased) with respondent no. 1-Punjab National Bank being the only legal heirs of Sudha Rani. Petitioner No. 1 is the husband of deceased Sudha Rani and petitioner No. 2 her son. Sudha Rani died on 25.06.2012. On the application filed by Kiran Rani, real sister of the deceased under Order I Rule 10 CPC, the trial Court allowed her prayer vide impugned order dated 23.04.2013 but directed her to be impleaded as co-plaintiff. It is this direction of the trial Court that the learned counsel for the petitioners has confined his arguments otherwise the assertion of respondent No. 2 in the application was that she is the only nominee of the locker opened by the deceased.

I have heard learned counsel for the petitioners, counsel for respondent no. 1-Bank, perused the impugned order and the paper-book.

Despite service of respondent no. 2, there was no representation from her.

Learned counsel for the petitioner submits that petitioners cannot have any objection to the application under Order I Rule 10 CPC for Kiran Rani to be impleaded as defendant but she could not be added as co-plaintiff, there being conflict of

interest between the parties. The petitioner-plaintiff being *dominus litis*, the Court cannot force upon them to implead any other person to be impleaded as a co-plaintiff. The trial Court in the impugned order has not specifically dealt with the issue as to how applicant-respondent No. 2 could be impleaded as co-plaintiff against the wishes of petitioners, though on merits she may have a valid claim to set up.

In view of the aforesaid discussion, I find that the impugned order cannot be sustained to the extent of directing Kiran Rani to be impleaded as a co-plaintiff, though being necessary party should be impleaded as defendant no. 2.

In view of the above, the impugned order is modified to the extent that Kiran Rani would be defendant no. 2 in the case after allowing her application to be impleaded as necessary party. The trial Court would proceed further to decide the matter in accordance with law.

With the aforesaid modification in the impugned order, the instant petition stands disposed of.

January 27, 2015
jk

(R.P. NAGRATH)
JUDGE