

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

CR No.635 of 2015

Date of Decision: 28.01.2015

Nand Kishore

. . . .Petitioner

Versus

SDO (OP) City S/Divn. No.2, DHBVN Ballabgarh and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Johan Kumar, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is directed against the order dated 5.12.2014 by which an application filed under Order 1 Rule 10 of the Code of Civil Procedure, 1908 [for short 'the CPC] by respondents No.2 & 3 for impleading them as party has been allowed.

Learned counsel for the petitioner has submitted that he had filed simple suit for permanent injunction against respondent No.1/defendant No.1 to restrain them for disconnecting their electricity supply and has not claimed any relief against respondents No.2 & 3, who have been impleaded as party.

In support of his submission, learned counsel for the petitioner has relied upon a decision of this Court passed in CR No.854 of 2010 titled as "*Mohan Shyam and others Vs. Munshidhar and others*" decided on 15.3.2010 to contend that in a case of permanent injunction where there is no dispute with regard to title, the person, who sought to become a party to the suit, can always file separate suit for declaration.

After hearing learned counsel for the petitioner and examining the record, I am of the considered opinion that there is no merit in his arguments because in this case the dispute is that the persons, who have become party to the suit, are the real brothers and the petitioner has set up his ownership over the property in dispute on the basis of a family settlement, alleged to have been executed between the parties vide document No.4103 dated 25.7.2013, which was registered in the office of Sub-Registrar, Ballabgarh.

At the same time, the case of the applicants/respondents No.2 and 3 is that the petitioner had taken the aforesaid property from them on rent on 26.7.2013 and has failed to pay the rent, therefore, they have claimed their ownership over the property in dispute.

During the course of hearing, learned counsel for the petitioner has submitted that respondents No.2 and 3 should not have been impleaded as party because respondent No.1 is acting at the behest of respondents No.2 and 3. If this is the state of affair, respondents No.2 and 3 are the necessary parties in this case because the petitioner is making allegations against them and alleging their connivance with respondent No.1, therefore, their presence in the suit would facilitate the Court to arrive at the just conclusion.

Accordingly, I do not find any merit in the present petition and hence, the same is hereby dismissed.

28.01.2015*Vivek***(RAKESH KUMAR JAIN)
JUDGE**