

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

CR No.6613 of 2015 (O&M).

Date of Decision: 30.11.2015.

Chander Pal Singh and others

....Petitioners.

VERSUS

Ajay Pal and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sanjeev Sharma, Advocate for the petitioners.

SNEH PRASHAR, J.

By way of this petition under Article 227 of Constitution of India, petitioners have sought quashing of order dated 11.08.2015 passed by Additional Civil Judge (Senior Division), Pataudi whereby the application filed by Inder Singh under Order I Rule 10 of the Code of Civil Procedure (for short, "the Code") for being impleaded as party to the suit filed by the petitioners was allowed.

The facts, as they emerge from the pleadings of the petitioners are that one Inder Singh son of Jiwan Singh, resident of village Bhora Kalan, District Gurgaon filed a civil suit for permanent injunction against the petitioners in the year 2001 claiming himself to be in peaceful

possession of the property in dispute situated at village Bhora Kalan, District Gurgaon, on the basis of a registered sale deed executed on 19.11.1966 between him (Inder Singh) and Balbir Singh (father of the petitioners). The suit was contested by the petitioners with a specific plea that Inder Singh was not in possession of the property in dispute and the alleged registered sale deed was a forged and fabricated document. The suit was decreed by learned trial Court vide judgment and decree dated 27.01.2006. The petitioners preferred an appeal which was accepted by learned first appellate Court vide judgment dated 22.07.2006 and the judgment and decree passed by learned trial Court was set aside. Resultantly, the suit of the plaintiff was dismissed. Against the said judgment and decree, a Regular Second Appeal No.4354 of 2006 is pending before this Court.

In the year 2009, the petitioners filed a suit for permanent injunction against the respondents in which Inder Singh filed an application invoking the provisions of Order I Rule 10 of the Code for being impleaded as party to the suit. Though the application was contested by the petitioners but the learned trial Court allowed the same vide order dated 11.08.2015. Impugning the said order, the instant revision has been filed.

The submissions made by Mr. Sanjeev Sharma, learned counsel representing the petitioners have been considered.

Learned counsel for the petitioners submitted that in the earlier civil suit Inder Singh had failed to prove his possession over the suit property. He could also not prove the alleged registered sale deed on the

basis of which he had claimed that he had purchased the suit property from father of the petitioners, whereas the Local Commission appointed by the trial Court in that case had proved existence of a tin shed of the petitioners on the suit property. In the backdrop of said facts, the application of Inder Singh for being impleaded as party to the suit filed by the petitioners has been erroneously allowed by learned trial Court.

It is apparent from the order dated 11.08.2015 of learned trial Court that to support their claim of title as well as possession over the suit property, the petitioners-plaintiffs had mainly relied upon the findings recorded by learned Additional District Judge, Gurgaon in the judgment and decree dated 22.07.2006 passed in the earlier suit in which Inder Singh was a party. Admittedly, a Regular Second Appeal of Inder Singh assailing the said findings is pending before this Court, which means that the said findings have not so far become final between the petitioners and Inder Singh. Learned trial Court has rightly observed that in case the Civil Court in the present suit reaches the conclusion that the petitioners-plaintiffs are in possession of the suit land and on the other hand Regular Second Appeal of Inder Singh is accepted, the same will result in conflicting decisions by the Courts which will further lead to undesirable litigation. Accordingly, finding Inder Singh to be a necessary party to the present suit and his presence being also essential for complete and proper decision of the case, learned trial Court has allowed the application of Inder Singh for being impleaded as party to the suit.

There being no illegality or perversity in the order of learned trial Court warranting intervention, this petition is dismissed.

(SNEH PRASHAR)
JUDGE

30.11.2015.
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