

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6767 of 2014 (O&M)
Date of decision: 12.03.2015

Sat Parkash

... Petitioner

versus

Usha and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sumit Gupta, Advocate for the petitioner.
Mr. Ashwani Gaur, Advocate for the respondents.

K.Kannan, J.

The application for impleadment was sought by the plaintiff on a plea taken by the defendant that one Vinod Kumar who is the brother of the defendant was in possession of the property under an alleged family settlement. Since, the suit was in respect of immovable property and a 3rd party claim was set up by the defendant, the plaintiff sought the impleadment of the Vinod Kumar, but, made an averment in the petition that Vinod Kumar has neither any interest nor in possession, but, in view of the defence taken, his presence in suit is necessary.

The counsel for the respondents explains that since the petitioner have stated that Vinod Kumar has no interest, the impleadment cannot be ordered. The contention is fallacious. If the petitioner says that Vinod Kumar has neither interest nor in possession, it is another way of saying that he is not prepared to concede to the defence that there is a family arrangement and that Vinod Kumar is in possession. His presence surely becomes essential in view of the defence taken by the defendant and the respondents themselves will be estopped from causing any objection to the impleadment by the

contentions raised in the written statement. The order passed is erroneous and it is set aside. The party sought to be impleaded shall be impleaded as defendant No.4. The court shall grant him opportunity to file written statement and proceed with the suit in accordance with law.

The civil revision petition is allowed.

(K.KANNAN)
JUDGE

12.03.2015

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