

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CR No. 7234 of 2015 (O&M)

Date of decision : December 08, 2015

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Kanwar Bhan

.....Petitioner

Versus

Ankur and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sudhir Kumar Hooda, Advocate for the petitioner.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

The petitioner has come up in revision petition against the order dated 21.9.2015 (Annexure P-5) passed by the Additional Civil Judge (Senior Division), Samalkha whereby his application under Order 1 Rule 10 CPC for impleading him as defendant no.3 in the **Suit No.552 of 2012** titled '**Ankur vs. Municipal Committee, Samalkha and another**' has been dismissed.

The respondent-plaintiff had filed a suit for declaration and restraining the defendants from interfering in the peaceful possession of the plaintiff. He has not sought any relief against the present petitioner-applicant. The suit has been filed against

Municipal Committee, Samalkha. The case of the applicant is that he had purchased a plot measuring 125 sq. yards vide registered sale deed bearing vasika no. 1595/1 dated 4.2.1997 from Ram Phal son of Dharam Singh. The sale deed has been executed in favour of the applicant on 29.12.2005 by Tek Ram son of Shafi. The respondent-plaintiff is making an attempt to grab the portion measuring 75'X90' of the applicant and hence his impleadment in the suit was necessary as defendant no.3.

The trial Court has dismissed the application on the ground that the petitioner-applicant had an independent right to file a separate suit of ownership of plot measuring 125 square yards which he purchased on 4.2.1997 from Ram Phal and which was finally executed in his favour on 29.12.2005. Since the respondent-plaintiff was seeking ownership of the land in his possession and no relief was being claimed against the petitioner-applicant, he was not necessary party to the suit. Moreover, the land of the petitioner-applicant and the respondent-plaintiff was part of khasra no.82 and all the occupants of khasra no.82 were not necessary to be impleaded in the suit. Reliance was placed on **Mustak Ahmed and another vs. Sharmlat Patti Sikhan and others 1992(3) LJR 68.**

The application has been rightly dismissed on the ground that the respondent-plaintiff cannot be compelled to fight against a person against whom he does not wish to fight and against whom he does not claim any relief.

There is no infirmity or illegality in the order passed by the

trial Court warranting interference of this Court. Hence the present revision petition is dismissed.

December 08, 2015
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(RITU BAHRI)
JUDGE