

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

C.R. No. 7151 of 2014 (O & M)

Date of decision: 09.02.2015

Adarsh Bhushan

....Petitioner(s)

Versus

Shree Ram Lila Sabha and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

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

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 2959-CII of 2015

Application for placing on record the rent deed dated 02.02.1982 as Annexure P-7 and for dispensing with filing of certified copy of the same is allowed, subject to all just exceptions.

The said Annexure is taken on record.

C.R. No. 7151 of 2014

The present revision petition filed by the applicant under Article 227 of the Constitution of India is directed against the order dated 17.09.2014 (Annexure P-5) passed by the Civil Judge (Jr. Divn.), Karnal whereby, the application for impleadment under Order 1 Rule 10 CPC has been dismissed.

The reasoning given by the trial Court is that the property mentioned was leased out by the plaintiff vide registered lease deed dated 11.02.1982 for a period of 30 years and defendants no. 2 to 6 were inducted as tenants. The applicant was claiming himself to be the owner of the property whereas the suit in question was for possession and recovery of the

mesne profits. The plaintiff could not be forced to litigate against a party against whom no relief had been claimed and the ownership rights were not to be determined as such in the suit for possession by way of ejectment of the defendants.

Counsel for the petitioner has vehemently argued, while placing reliance upon judgment of this Court in ***RKS Builders vs. Bhupinder Kumar, 2001 (2) PLR 804***, that the relief of possession has been claimed and it also included the relief of declaration and the issue of title was concerned which the plaintiff was also setting up.

After hearing counsel for the petitioner, this Court is of the opinion that the order passed is well justified. Admittedly, the suit for possession has been filed against the defendants by the plaintiff for the recovery of lease money and mesne profits for use and occupation. The rent deed would go on to show that defendant no. 1, respondent no. 2 in the present case, was leased out the property for a period of 30 years and the said agreement was executed by the plaintiff through its Manager Sh. Piare Lal. The petitioner was nowhere in the picture vide which the property was leased out 30 years back. On the lease expiring, a legal notice had been served upon the defendants by the plaintiff to hand over the actual and physical possession and resultantly, the civil suit had been filed on 15.06.2012 in which issues had also been framed. The fact that the plaintiff was the landlord of defendant no. 1 was not denied.

The application was thereafter filed under Order 1 Rule 10 CPC by the present petitioner claiming that the ancestors of the applicants were owners of the land and that he is the son of Late. Hukam Chand, who was one of the co-owners of the property in question, as per the revenue record.

The dispute thus, which now is sought to be raised by the present applicant is regarding the title of the property in question and by impleading them, a new controversy or a new issue would arise as such which is not the subject matter of the suit is question. If the petitioner has any right seeking declaration regarding the ownership, it is always open to him to file a separate suit. The principle of dominus litus does not enjoin upon the applicant to the impleaded as a party and the plaintiff cannot be forced to litigate against a person whom he claims no relief.

The judgment relied upon by the petitioner in *RKS Builders case (supra)* is not applicable since in the said case, the plaintiff had filed an application for impleadment of defendants who were claiming to be in possession of the property and to whom the land had been transferred by the builder. The said application was allowed by the trial Court and the said order was maintained by this Court. Thus, the facts in the said case are not applicable in the facts and circumstances of the present case.

Accordingly, there is no scope for interference in the well reasoned order passed by the trial Court and the present revision petition is dismissed.

09.02.2015
shivani

(G.S. SANDHAWALIA)
JUDGE