

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Regular Second Appeal No.41 of 1991
Date of Decision: 11.2.2015

Dalbir Singh (since deceased represented by LRs)
..Appellant

versus

The State of Haryana ..Respondent

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA

Present: Mr. Anil Kshetarpal, Advocate,
for the appellant.

Ms. Mamta Singhal Talwar, AAG, Haryana
for the respondent.

RAJIVE BHALLA, J. (ORAL)

The appellant challenges judgment and decree dated 1.12.1990 passed by Additional District Judge, Yamunanagar at Jagadhri, whereby judgment and decree dated 22.8.1987 passed by Sub Judge II Class, Kurukshetra, was reversed and the suit filed by the appellant was held to be not maintainable.

Counsel for the appellant submits that as the appellant had impleaded the Collector, the Chairman, Haryana Forest Department and the Secretary, Irrigation Department as parties, the mere fact that the appellant did not append the words "State of Haryana", would not render the suit not maintainable for want of impleading correct and proper parties. Counsel for the appellant further submits that application dated 28.11.1990 was filed before the first appellate court for rectifying the memo of parties in the plaint but

was dismissed on the ground that it has been filed after judgment was reserved.

Counsel for the State of Haryana submits that as the appellant did not implead the State of Haryana, the impleading of the Collector, Kurukshetra, the Forest Department through Chairman and the Irrigation Department through Secretary, has rightly led to dismissal of the suit.

I have heard counsel for the parties, perused the impugned judgments and find that no question of law arises for adjudication. The appellant sought relief against the State of Haryana by particular reference to the Forest Department. As a consequence, the appellant was required to implead the State of Haryana through its functionaries. A perusal of the plaint reveals that the State of Haryana was not impleaded as a party. The mere impleading functionaries of the State of Haryana would not render the suit maintainable. The filing of the application for rectification of the memo of parties in the plaint is, in fact, an admission of the fact that the State of Haryana was not impleaded as a party.

Consequently, finding no merit in the appeal and the absence of any substantial question of law, the appeal is dismissed with liberty to the appellant to seek his remedy regarding ownership and possession afresh and in accordance with law.

(RAJIVE BHALLA)
JUDGE

11.2.2015
VK