

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

**CR-1450 OF 2016
Date of Decision: 26.02.2016**

DHARMINDER SINGH

.....Petitioner

Vs.

KAILASH CHANDER GUPTA & OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. S.K. Singla, Advocate
 for the petitioner.

DARSHAN SINGH, J. (Oral)

1. The present revision petition has been preferred against the order dated 30.11.2015 passed by learned Civil Judge (Senior division), Karnal, vide which the application filed by the respondent-plaintiff under Order 1 Rule 10 and Order 6 Rule 17 read with Section 151 of Code of Civil Procedure, 1908 (in short 'CPC') for impleading Kumari Rupanshi as defendant, has been allowed.

2. Learned counsel for the petitioner contended that petitioner has raised the objection in the written statement in the very beginning that the suit was bad for non-joinder of Rupanshi but the application has been filed by the plaintiff-respondent at the fag end of the case. Impleading of Rupanshi would virtually amount to de novo trial. He further contended that suit was also barred by limitation against Rupanshi. Thus, he pleaded that

the impugned order passed by the learned trial Court is not legally sustainable.

3. I have duly considered the aforesaid contentions. Respondent No.1-plaintiff-Kailash Chander Gupta has filed the suit for possession by way of specific performance on the basis of the agreement to sell allegedly executed by Ravi Kumar Azad in favour of the plaintiff. Kumari Rupanshi is also one of the legal heirs of the deceased-Ravi Kumar Azad, the executant of the agreement. So, the plaintiff has filed the application under Order 1 Rule 10 for impleading Rupanshi as a defendant in the suit and for consequential amendments in the plaint. This fact cannot be disputed that Kumari Rupanshi being the legal heir of deceased-Ravi Kumar Azad, was the necessary party to the suit. Even the defendants have taken the specific plea in the written statement that the suit was bad for non-joining of Rupanshi as a party. As per the provisions of Order 1 Rule 10 CPC, the necessary party can be impleaded at any stage of the suit for effective adjudication of the controversy involved in the suit. So, mere this fact that the application has been moved at belated stage is no ground to decline the request.

4. As far as the question of limitation is concerned, the learned trial Court has already kept this issue open and to be decided at the appropriate stage on the basis of evidence to be led by the parties.

5. The amendments sought in the plaint are only the consequential amendments due to addition of Kumari Rupanshi as a party to the suit. Thus, I do not find any illegality in the impugned order to interfere while

exercising the extraordinary supervisory powers under Article 227 of the Constitution of India.

6. Thus, keeping in view my aforesaid discussion, the present revision petition having no merit, is hereby dismissed.

26.02.2016
SwarnjitS

(DARSHAN SINGH)
JUDGE