

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2204 of 2016

Date of Decision.31.03.2016

Vinod Kumar and others

.....Petitioners

Vs.

Seth Ashok Kumar and others

.....Respondents

Present: Mr. Robin Dutt, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. The suit by the plaintiffs was brought on a plea that the property belongs to the plaintiffs as legal heirs of Radhey Sham and in January, 2012, it was decided to construct Dharamshala for the benefit of the villagers and at the time when demarcation was made, it was found that the proeprty was in unlawful possession of defendant Nos.1 to 3. The defendants have filed the written statement and contested the plaintiffs' claim. Now the application is filed by the petitioners who are third parties to the proceedings contending that the property belongs to the Dharamshala and that entries in the revenue records from the year 1950 show this property as endowed in Dharamshala. The petitioners, therefore, seek for impleadment as co-plaintiffs and for recovery of possession. The plaintiffs had no objection for the same.

2. Such application for impleadment cannot be permitted for the only reason that it would bring mutually inconsistent pleas for the

plaintiffs themselves, one set of plaintiffs who are there in suit contending that the property belongs to them absolutely as legal heirs of Radhey Sham seeking for ejectment and another at the instance of party, who if pleaded, will go with the contention that the property belongs to Dharamshala. Such mutually inconsistent pleas cannot be a ground for ejectment and it will harm the plaintiffs' suit as it has been filed.

3. If the Dharamshala were to contend that the suit has been wrongly instituted by persons who are not owners of the property especially when the property had endowed in Dharamshala, it will be open to the petitioners to file their own suit making the plaintiff as parties and secure a relief of recovery of possession against the defendants who according to the petitioners are in unlawful possession and got an appropriate adjudication if it is inconsistent with the pleas already brought through the instant suit.

4. The order already passed is maintained and the revision petition is dismissed.

(K. KANNAN)
JUDGE

March 31, 2016
Pankaj*