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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3478-2015

Date of Decision : January 25th, 2016

Gurmeet Singh

.... Petitioner

Versus

Bhaginder Singh and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

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?

Present Mr. Binderjit Singh, Advocate,
for the petitioner.

Mr. Rajan Bansal, Advocate,
for respondents No. 1 to 3.

Mr. Deepak Gupta, Advocate,
for respondents No. 17 to 19.

SHEKHER DHAWAN, J.

Present revision petition under Article 227 of the Constitution of India for setting aside order dated 9.4.2015 [Annexure P/8] passed by Civil Judge [Junior Division], Bathinda whereby application dated 18.12.2014 [Annexure P/6] filed by the petitioner under Order I Rule 10 CPC for impleading him as defendant, was dismissed.

Learned counsel for the petitioner submitted that Jaswant Kaur alias Basant Kaur widow of Niranjn Singh was owner of the land in dispute. She died issueless on 14.6.2007. Plaintiffs-respondents No.1 to 3 and the petitioner are the only natural heirs of Jaswant Kaur alias Basant

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Kaur being her cousins. Succession on the basis of mutation was sanctioned in favour of the plaintiff-respondents No.1 to 3 and the petitioner vide order dated 8.12.2010 [Annexure P/1]. Thereafter the plaintiffs filed a suit for declaration to the effect that they are owners in possession over the suit land. However, the present petitioner was not impleaded as a party to the litigation.

Defendants No. 4 to 8, defendants No.10 to 25 and defendant No. 26 filed their separate written statements.

On 18.12.2014, the petitioner filed an application under Order I Rule 10 read with Section 151 CPC for impleading him as a defendant on the ground that he is also one of the natural heirs. The plaintiffs did not contest the said application and still the Court below dismissed the application and the said order is liable to be dismissed.

Learned counsel for representing the plaintiffs – respondents No.1 to 3, took the plea that they have no objection if the present application is accepted.

However, learned counsel for respondents No.17 to 19 took the plea that the present application has been filed at the time of conclusion of the trial of the case and with ulterior motive just to delay the proceedings of the litigation. The applicant is in collusion with the plaintiffs, respondents No. 1 to 3 herein. The main civil suit is of the year 2008 and the application has been filed just to delay the proceedings of the case.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that as per copy of the plaint, the main suit is for declaration filed by Bhaginder Singh, Parminder Singh and Kuljit Singh to the effect that they are owners in possession of

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the land measuring 91 Kanals 09 Marlas and land measuring 5 kanals and 12 Marlas as detailed in the headnote of the plaint. The plaintiffs also filed the suit seeking relief of permanent injunction as well. Thereafter the application under Order I Rule 10 CPC was filed by the present petitioner for impleading him as a party to the litigation as he is also a necessary party and had also inherited the property left by Jaswant Kaur. This application has been filed at a much belated stage. The Court can certainly pass the order for decision of the Civil Suit without impleading the applicant because no relief is being claimed against the present petition. That way, the present petitioner is not the necessary party for the just decision of the main civil suit pending before the Court below. The plea taken by the contesting respondents-defendants establishes that the plaintiffs are in collusion with the present petitioner and that is why, they are not objecting to the impleadment of the present petitioner although, he is not the necessary party for the proper adjudication of the main suit. The Court below has rightly taken the view that the matter pending before it can be completely and properly adjudicated without impleadment of the present petitioner and the order passed by the Court below does not suffer from any illegality. There are no grounds for setting aside the impugned order and the present petition stands dismissed being devoid of any merit.

(SHEKHER DHAWAN)
JUDGE

January 25th, 2016
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