

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

CR No. 3296 of 2014 (O&M)

Date of decision: January 21, 2016

Dalip Singh and others

...Petitioners

Versus

Ratan Lal and others

...Respondents

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?**

Present: Mr. Lokesh Sinhal, Advocate,
for the petitioners.

Mr. Sanjay Vij, Advocate,
for the respondents.

K. KANNAN, J. (Oral)

1. A petition for impleadment filed two months within the date of the institution of the suit was kept pending for six years without an order from the Judge. At the conclusion of the trial, the plaintiffs reminded the court that there was an application pending for impleadment of party who had claimed to purchase some of the suit properties from one of the defendants. They wanted the relief in their presence. The Court declined the relief.

2. At the previous hearing, when it was pointed out that the suit was for the relief of declaration and injunction on a plea that the suit property belonged to him by way of adverse possession, I had directed the

original record to be brought before this Court to consider the maintainability of the relief sought, in the light of decision of this Court in Vijay Bhawar and others Versus Ajaib Singh (Deceased) through his LR 2015 (3) RCR (Civil) 604.

3. The original record has not been despatched. Today when the case was again called, after hearing the learned counsel for the parties, I do not think I need to detain myself on considering the issue of maintainability and it will be open for the defendants to make for such contentions as it is possible before the trial court. In all matters where an application is pending, it is only appropriate that the party apprises the court of the application and seek for further direction and order. If the plaintiffs have allowed the suit to proceed without an order on the application for impleadment, they are surely responsible for causing an unnecessary delay further in the matter of disposal of the suit, but on the merits of a plea for impleadment, it surely makes out a case of an adjudication which the plaintiffs desire in the presence of purchasers of the property from the defendants. The application ought to have been ordered and if it was not done, it was on account of the laches of the plaintiffs themselves.

4. For the sheer indiscretion of the plaintiffs in not duly apprising the court of the pendency of the application, that has resulted in the suit prolonging without being concluded, I impose costs of Rs. 15,000/- against the plaintiffs as a condition precedent for impleadment. The cost shall be paid within two weeks from the date of receipt of a copy of this order and if it is not paid to the contesting defendants, the order already passed shall be retained and the court will proceed to dispose of the suit in accordance with

law. If the amount is paid, the newly added party shall be served with the copy of the plaint, statement shall be filed within four weeks from the date when the case is posted for hearing after the notice is served. If the statement is not filed within the time stipulated, namely, four weeks from the date of service of notice, no further time will be granted and the court will decide on merits of the case in the light of the evidence already brought. If the statement is filed, the plaintiffs shall be recalled only to give evidence as they may decide with reference to the newly added parties and after their side is concluded, the purchasers will be given an opportunity to give evidence on the respective purchases. The court shall thereafter proceed to decide the case in accordance with law.

3. The order impugned already passed is modified and the revision is allowed on the above terms.

January 21, 2016
prem

(K. KANNAN)
JUDGE