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

**CR-4154-2015 (O&M)**

**Date of decision : 04.02.2016**

Prem

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Sumit Gupta, Advocate  
for the petitioner.

Mr. D.K. Mittal, DAG, Haryana  
for respondent Nos.1 to 3.

Mr. Sandeep Singal, Advocate  
for respondent Nos.4 and 5.

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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?

**AMIT RAWAL, J. (ORAL)**

The petitioner is aggrieved of the order dated 09.03.2015, whereby the application filed on behalf of respondents No.4 and 5 under Order 1 Rule 10 of the Code of Civil Procedure (hereinafter called 'CPC') for impleading them as party to the suit as defendants namely Ishwar son of Mange Ram

and Bishamber son of Shish Ram, has been allowed.

Mr. Sumit Gupta, learned counsel appearing on behalf of the petitioner submits that the suit for permanent injunction with consequential relief of mandatory injunction against the State of Haryana on the ground that the plaintiffs are in possession of the residential plot measuring 136 square yards situated in abadi deh of village Mandhoti, Tehsil Bhadurgarh, District Jhajjar on the basis of the oral and documentary evidence was filed and suit has reached at the stage of defendants' evidence and arguments but the application was filed on behalf of the aforementioned applicants for impleading them as defendants on the premise that they are in possession of the property. He submits that such applicants had already filed a civil suit bearing No.422 of 2010 against the petitioner-plaintiff for permanent injunction with consequential relief of mandatory injunction which has been dismissed vide judgment and decree dated 30.09.2014 and prays that the petitioner-plaintiff is dominus litus, thus, the trial Court has erroneously allowed the application without noticing the aforementioned facts.

Mr. Sandeep Singal, learned counsel appearing on behalf of respondents No.4 and 5 submits that the land in dispute is one and the appeal against the judgment and decree aforementioned is stated to be pending before the First Appellate Court. The right and interest of the applicants sought to be impleaded is seriously prejudiced, if they are not allowed as defendants. The order under challenge does not suffer from illegality and perversity and thus,

prays for dismissal of the revision petition.

I have heard the learned counsel for the parties and appraised the paper book.

I am of the view that the impugned order is not sustainable in the eyes of law for the reason that the petitioner being dominus litus has not sought claim of injunction against the respondents No.4 and 5. Since, respondents No.4 and 5 have already availed the remedy by filing the suit and the appeal is pending and shall be at liberty to seek vindication of the grievance if any, in those proceedings, but not in the manner and mode as has been adopted. Moreover, the application had been filed, when the suit had reached at the stage of the defendants' evidence and arguments. Allowing of the application, in my view, would tantamount to *de novo* trial, which is not permissible in law.

Keeping in view the aforementioned facts, the impugned order dated 09.03.2015 is set aside and the application under Order 1 Rule 10 CPC is, accordingly, dismissed.

With the aforementioned observations, the revision petition is allowed.

**04.02.2016**  
yogesh

**( AMIT RAWAL )**  
**JUDGE**