

Civil Revision No. 5451 of 2013(O&M)

Date of Decision: 23.2.2016

Sulinder Singh @ Surinder Singh

---Petitioner

versus

Sandesh Kumari and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Munish Gupta, Advocate
for the petitioner

Mr. Deepak Verma, Advocate
for respondents No. 1 and 2

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition lays challenge to order dated 19.8.2013 passed by the trial court allowing application filed by Harjinder Singh Banga, respondent No. 2 to be impleaded as a party on the array of defendants.

Counsel for the petitioner would submit that as the petitioner has filed a simpliciter suit of injunction against Sandesh Kumari, respondent No. 1, respondent No. 2 is not entitled to be impleaded as a defendant as cause of action against respondent No. 1 is personal in nature and the petitioner is a dominus litis and cannot be forced to implead respondent No. 2 as a party.

Counsel for respondents has submitted that the petitioner though has filed a suit for injunction but he has claimed ownership of the suit property on the basis of Will dated 14.8.2002 (Annexure P-5) to the exclusion of the respondents. It is further submitted that as question of title has been raised in the suit for injunction, respondent No. 2 being one of the class-I heirs of Sh. Piara Singh (since deceased) is a necessary party for complete and effective adjudication of the matter in controversy.

In response, counsel for the petitioner has submitted that the petitioner will not press for determination of ownership on the basis of Will propounded by him and he would assert only issuance of injunction against respondent No. 1 in regard to possession of the suit property, therefore, the order passed by the trial court may be set aside.

Counsel for respondents, in view of statement made by counsel for the petitioner has got no objection if the present petition is allowed without prejudice to right of respondent No. 2 in the suit property.

In view of the above, the petition stands disposed of, the impugned order is set aside but subject to the condition that neither the petitioner would press for adjudication of ownership of the suit property on the basis of Will in question nor the trial court would enter upon the question of ownership while deciding claim of the petitioner for grant of injunction qua possession of the suit property, against respondent No. 1.

(Rekha Mittal)
Judge

23.2.2016

PARAMJIT