

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

**CR No.5949 of 2014
Decided on: 28.01.2016**

Jaswinder Singh and others

....Petitioners

Versus

Tej Kaur and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present: Mr. S.K. Arora, Advocate
for the petitioners.

Mr. Karan Bhardwaj, Advocate
for the respondents.

REKHA MITTAL J. (Oral)

The present petition has been directed against the order dated 02.07.2014, passed by the Civil Judge (Junior Division), Ferozepur, whereby the application filed by the petitioners under Order 1 Rule 10 of the Code of Civil Procedure for impleading them as a party on the array of defendants (i.e. defendants No.4-A to 4-C) in the suit preferred by the respondent has been dismissed.

Smt. Tej Kaur, the respondent filed a suit for declaration that she is owner in possession of residential house along with plot measuring 19 ft. x 84 ft. detailed in the headnote of the plaint situated at Ward No.2 behind Government Girls School, Talwandi Bhai, Tehsil and District Ferozepur. Further prayer has been made that names of Piar Kaur widow of Chand Singh and

Chand Singh son of Kaka Singh in a writing dated 09.01.1989, got executed at the instance of Sadhu Singh is illegal, wrong, null and void and inoperative upon the rights of the respondent and liable to be deleted. She further prayed for consequential relief of mandatory injunction for a direction to defendant No.1 to vacate a part of the suit property depicted in green colour in the site plan attached and also issuance of permanent injunction restraining defendant No.1 from alienating the portion shown in green. One of the plea raised in the suit is that the respondent is an illiterate lady and her brother-in-law Sadhu Singh son of Kaka Singh sold her entire plot and left the place by obtaining a sum of Rs.15,500/- vide writing dated 09.01.1989. The plot in question was sold by said Sadhu Singh in regard to his entire share in favour of the plaintiff and defendant No.1 or his other collaterals from the womb of Smt. Puro.

Counsel for the petitioners would submit that as the petitioners are the successors-in-interest (legal heirs) of Sh. Sadhu Singh and the respondent-plaintiff has claimed ownership in possession of the suit house on the plea that the plot in question was sold by Sadhu Singh in her favour, the petitioners are a necessary party for complete and effective adjudication of the matter in controversy. It is further argued that in case the petitioners are permitted to be impleaded as a party, it would avoid filing of another suit by the petitioners and multiplicity of

proceedings. It is further submitted that no prejudice would be caused to the respondent in case the petitioners are impleaded as defendants and afforded an opportunity to protect their rights in the suit property.

Counsel for the respondent has supported the impugned order with the submission that as the petitioners can file an independent suit in regard to their right in the suit property being the legal heirs of Sadhu Singh and the respondent has not claimed any relief against them, there is no reason for compelling the respondent to implead them as a party particularly in the circumstances that the plaintiff is a *dominus litis*.

I have heard counsel for the parties and perused the records.

The respondent has filed the suit for declaration staking her claim to ownership in possession of the suit house on the plea that the suit property was sold by Sh. Sadhu Singh, the predecessor-in-interest of the petitioners. There is no dispute that any judgment passed by the trial Court, in the absence of the petitioners, would neither be binding upon them nor would operate to cause any prejudice to their rights. Equally true is that in case the petitioners are not allowed to be impleaded as a party, they would be at liberty to file an independent suit claiming their right in the suit property being legal heirs of Sadhu Singh. However, keeping in view the fact that the petitioners are admittedly the successors-in-interest of

Sh. Sadhu Singh and the respondent has been claiming ownership having stepped into shoes of Sh. Sadhu Singh on the basis of some sale, impleading of the petitioners in the present proceedings would avoid multiplicity of proceedings as well as facilitate complete and effective adjudication of the entire matter in controversy. In this view of the matter, I am of the considered opinion that the application filed by the petitioners for impleading them as defendants in the suit is meritorious and deserves to be accepted and ordered accordingly.

For the reasons afore-stated, the petition is allowed and the impugned order is set-aside. As a natural consequence, the application filed by the petitioners under Order 1 Rule 10 CPC is allowed and the petitioners are allowed to be impleaded as defendants No.4-A to 4-C.

(REKHA MITTAL)
JUDGE

28.01.2016
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