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

CR-6153-2013 (O&M)

Date of decision : 05.08.2016

Gurjant Singh

... Petitioner

Versus

Albel Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate
for the petitioner.

Mr. Harsh Aggarwal, Advocate
for respondent No.1.

Mr. K.S. Cheema, Advocate
for respondent No.2.

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-plaintiff is aggrieved of the impugned order, whereby the application at the instance of the respondent No.1-defendant for impleading Dhanna Singh, father of the plaintiff as defendant in the suit, has been allowed.

Mr. G.S. Punia, learned Senior Counsel assisted by Ms. Harveen Kaur, learned counsel for the petitioner-plaintiff submits that Labh Singh was owner of the property and he had left behind three sons, namely, Mukhtiar Singh, Mohinder Singh and Amar Singh. Amar Singh,

gave 1/3rd share to Albel Singh and Karnail Singh and Karnail Singh gave 1/3rd share in exchange to Gurjant Singh. Though, this fact was disputed by the defendant, but the fact remains that defendant No.1 shall be at liberty to take all the possible objections in their written statement viz-a-viz maintainability of the suit, but cannot force upon the plaintiff to implead his father as a party which is against “*doctrine akin to dominus litis*”. This aspect has not been noticed by the trial Court.

Mr. Harsh Aggarwal, learned counsel appearing on behalf of respondent No.1-defendant submits that there is already partition proceedings amongst the parties which have been effected on the basis of the family settlement of which Dhanna Singh is a signatory and therefore, impleadment of Dhanna Singh is essential and necessary for the adjudication of the suit, thus, urges this Court for affirming the findings under challenge.

I have heard the learned counsel for the parties and appraised the paper book and of the view that of the view that the respondent No.1-defendant shall be at liberty to take all the possible objections in the written statement, but cannot force/thrust upon the appellant-plaintiff to implead his father as respondent-defendant. He shall be at liberty to lead evidence viz-a-viz the aforementioned assertions, but not in the manner and mode as has been adopted. If at all, the trial Court finds that suit was bad for non-joinder of the party, it shall pass an appropriate order. The “*doctrine akin to dominus litis*” is no longer *res integra* and it is for the petitioner-plaintiff to implead the party or not.

In view of what has been noticed above, the impugned order

dated 06.09.2013 is hereby set aside and accordingly, the revision petition is allowed.

05.08.2016
yogesh

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No