

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.6307 of 2016 (O&M)

Date of Decision: 22.10.2016

Manohar Singh

.....Petitioner

Vs

Iqbal Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed order dated 16.08.2016 (Annexure P-1) passed by Civil Judge (Jr. Divn.) Guruharsahai vide which application under Order 1 Rule 10 CPC filed by the petitioner for impleading himself as necessary party to the suit was dismissed.

[2]. Brief facts as gathered from the record are that the petitioner filed the application in question on the premise that respondent Nos.1 and 2 filed a suit for declaration against respondent Nos.3 and 4 and they were owners in possession in equal share of the suit land measuring 16 *Kanals* comprised in *Rect.* No.259, *Killa* No.13(8-0), 14(8-0) situated in Guruharsahai. Relief of injunction was also sought to restrain the respondent Nos.3 and 4 from interfering in the possession of respondent Nos.1 and 2 over the suit land. Respondent Nos.1

and 2 alleged that they had purchased the suit property vide registered sale deed dated 19.11.2006 from respondent No.3 Pritpal Singh and since then they were in possession of the same. Mutation was not entered in the name of the plaintiffs.

[3]. Petitioner filed application under Order 1 Rule 10 CPC for impleading as applicant-defendant in the suit, alleging that the suit was filed by Iqbal Singh and Baljit Singh in connivance of Pritpal Singh. Applicant petitioner alleged that in place of defendant No.2 Harbans Lal, who was shown as *gair marusi* in the *jamabandi* for the year 2008-09 and was shown in possession in the revenue record, the applicant was in actual physical possession of the suit land for the last many years and his possession was depicted in the *khasra girdawari* of the suit land which was corrected in his name after spot inspection.

[4]. It was further alleged in the above said application that the suit land was shown to be *Jumla Mustarka Malkan*. The plaintiffs in connivance with defendant No.1 wants to grab the suit land by way of obtaining order from the Court in a fraudulent manner. Applicant-petitioner also alleged that the mutation on the basis of sale deed dated 09.11.2006 was rejected by the Revenue Officer as per Government Rules and instructions of the competent authority. The State of Punjab was not impleaded

as party intentionally, nor the Gram Panchayat was impleaded as party defendant to the suit. The jurisdiction of civil Court was also questioned in view of nature of land involved in the suit. The title in favour of Pritpal Singh was denied.

[5]. The said application was opposed by the plaintiffs Iqbal Singh and another. Trial Court found that as per *jamabandi* for the year 2008-09, the name of Harbans Lal was found mentioned and the plea of the petitioner was fallacious inasmuch as that he had no concern with the suit land. His suit for permanent injunction on the basis of alleged possession was dismissed by the competent Court vide judgment and decree dated 26.4.2016 passed in Civil Suit No.997/14. While dismissing the suit filed by the petitioner, the trial Court found that the plea of the petitioner being in exclusive cultivating possession of the suit land for the last many years could not be appreciated in view of the fact that as per *jamabandi* for the year 2008-09, entry of *Jumla Mustraka Malkan* was shown in column No.3 of the *jamabandi* and Harbans Lal was shown in possession of the same. Applicant-petitioner was not shown to be in possession.

[6]. It was further held by the trial Court that the name of the petitioner did not find mention even in *khasra girdawari* adduced

on record of the suit, nor in *Rapat* No.151 dated 04.10.2010. Only a *rapat* was made in favour of the petitioner at a subsequent stage and that was not considered to be sufficient for creating any right in his favour. The sale deed dated 06.06.1989 was not found relatable to the suit land, even in *jamabandi* for the year 1973-74 the suit property was shown to be *Jumla Mustarka Malkan* in possession of Harbans Singh in column No.14 of the *jamabandi*. The same entries were reflected in the subsequent *jamabandies* for the year 1983-84 and 2008-09.

[7]. On the other hand, it was found that by virtue of sale deed dated 09.11.2006 Iqbal Singh had purchased the suit property from Pritpal Singh. The suit filed by the applicant-petitioner was dismissed vide judgment and decree dated 26.04.2016. Once the possessory right of the applicant-petitioner was not found by the trial Court and the said judgment and decree dated 26.04.2016 had attained finality, therefore, the plea of the applicant-petitioner that he was in possession of the suit property cannot be accepted, nor the applicant-petitioner is found to be necessary party to be impleaded as party defendant.

[8]. The presence of petitioner was not found necessary for

effective adjudication of the case, nor the applicant was having any semblance of title or interest in the property in view of judgment and decree dated 26.04.2016 passed in a suit for permanent injunction filed by him.

[9]. The judgment titled as **Sumtibai and others vs. Paras Finance Co. Mankanwar W/o Parasmal Chordia (D) and others, 2007(4) RCR (Civil) 524** cited by learned counsel for the petitioner, is not applicable in view of facts and circumstances of the case. Since there was no semblance of interest at the instance of the petitioner, therefore, the petitioner being a third party cannot be perceived to be interested party in a suit filed by the plaintiffs against defendants. Plaintiffs being a *dominus litus* cannot be compelled to litigate against someone against their wishes. The petitioner having no right in the property has no *locus* to be impleaded against the wishes of the plaintiffs.

[10]. In view of aforesaid, this Court does not find any material worth appreciation in favour of the petitioner. This revision petition is accordingly dismissed.

October 22, 2016

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No