

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

**C.R. No.6753 of 2016**

**Date of Decision.07.10.2016**

M/s Alfiya Earth Movers and Civil Contractors

.....Petitioner

Vs

SREI Equipment Finance Limited DII and others

.....Respondents

Present: Mr. Sarfraj Hussain, Advocate  
for the petitioner.

Mr. G.S. Jagpal, Advocate  
for caveator-respondent No.1.

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

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**AMIT RAWAL J. (ORAL)**

Notice of motion.

Mr. G.S. Jagpal, Advocate accepts notice for respondent No.1.

The petitioner-plaintiff is aggrieved of the impugned order whereby the application of the respondent No.1 herein moved under Order 1 Rule 10 CPC in suit for permanent injunction titled as “M/s Alfiya Earth Movers and Civil Contractors Vs. Ramjan and others”, has been allowed.

Mr. Sarfraj Hussain, learned counsel appearing for the petitioner submits that the articles mentioned in paragraph 1 of the suit were alleged to have been purchased by the plaintiff from M/s DSC/KMP Limited vide letter dated 15.02.2004 and since then the petitioner-plaintiff had become owner but the respondents are attempting to temper with the said goods, much less, taking away the aforementioned machinery/consignment/goods as mentioned in the suit. In this backdrop of the matter, the suit has been filed. If at all, the applicant, who alleged to

not in the manner and mode as has been done. As the plaintiff is the dominus litus, no person can be allowed to be impleaded as party to the suit against his will, much less, no useful purpose will be served by impleading the respondent No.1 herein, as defendant No.6, thus, urges this Court for setting aside the order under challenge.

Per contra, Mr. G.S. Jagpal, learned counsel appearing for the respondent No.1 submits that the goods aforementioned were financed by the SREI Equipment Finance Limited to DSC. The letter referred to in paragraph 1 is forged and fabricated. Once respondent No.1 is the owner of the property, he is proper and necessary party and DSC has also been arrayed as party. The defendants are none else but own henchmen of the plaintiff and in the absence of the proper party, the plaintiff wants to claim injunction, thus, the order under challenge is perfectly legal and just.

He further submits that they will also set up a counter claim in case the order impugned is upheld.

I have heard learned counsel for the parties, appraised the paper book and of the view that impleadment of respondent No.1 is essential and appropriate for adjudication of the suit as they stated to have financed the aforementioned machinery in favour of DSC. Even DSC has been made party. I will not intervene with the same. It is prerogative of the plaintiff to proceed with the suit but owing to the statement made by Mr. Jagpal that they would also set up a counter claim, I am of the view that the grievance of the petitioner-plaintiff i.e. availing of the independent remedy by respondent No.1, stands redressed rather it would help the Court in adjudication of both the *lis* i.e. counter claim intended to be set up by respondent No.1, who is impleaded as defendant No.6 and the relief sought

by the plaintiff in the suit.

I am in agreement with the order passed by the Court. No ground for interference is made out, much less, the order cannot be said to be passed without jurisdiction. The revision petition is dismissed.

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

**October 07, 2016**

Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable                  No