

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

-.-

CR 7118 of 2015

Date of decision: 02.06.2016

Rajesh

..... Petitioner

Versus

SDO UHBVNL Sub Div. Assandh

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Harish Bhardwaj, Advocate and
Mr. Sandeep Singh, Advocate
for the petitioner

Mr. S K Mahajan, Advocate
for respondent No. 1

Mr. Mohan Singh Rana, Advocate
for respondent No. 2

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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. (Oral)

The present petition has been directed against the order dated 23.07.2015 passed by the Additional Civil Judge (Senior Division) Assandh, District Karnal, dismissing the application under Order 1 Rule 10 of the Code of Civil Procedure (in short, CPC) filed by the petitioner.

Respondent No. 2/plaintiff has filed a suit for declaration with consequential relief of permanent injunction on the premise that letter bearing No. 6208 dated 01.01.2013, issued by the Sub Divisional Officer, UHBVNL, Sub Division (OP) Assandh, Tehsil Assandh, District Karnal,

defendant in the original suit, is null and void, ineffective and not binding upon rights of the plaintiff. The defendant filed the written statement resisting claim of the plaintiff.

The petitioner filed the instant application under Order 1 Rule 10 CPC for impleading him as a party on the allegation that Ram Kumar plaintiff has filed the suit seeking injunction against the defendant from disconnecting electricity connection bearing No. SR-3-1015, installed in the alleged premises of Ram Kumar. The suit has been filed just to protect his possession in the land in question when otherwise the applicant is owner of the land where the plaintiff has got installed the electricity connection by concealing true facts.

After filing reply by the respondent/plaintiff and having heard counsel for the parties, the application has been dismissed with the observations that the plaintiff has not sought any relief against the applicant. The plaintiff being the *dominus litis* cannot be compelled to litigate against a person against whom he does not seek any relief. Plaintiff has challenged the impugned notice issued to him by the Electricity Board and has sought to restrain the Board from disconnecting the electricity supply. How the applicant would be affected by any decision which may be given, has not been pointed out by the applicant. He is neither a proper nor a necessary party to the suit.

Counsel for the petitioner has submitted that as the petitioner is a co-owner in the property in question in which the electricity connection has been installed in the name of respondent/plaintiff obtained by him by concealment of true facts, the petitioner is required to be heard in the matter for just decision of the case, therefore, his application filed for impleadment

may be allowed.

Counsel for the contesting respondent (respondent No. 2) has supported the impugned order with the submissions that in view of the provisions of Order 1 Rule 10 CPC, the Court below has rightly dismissed the application more particularly in the circumstances that the petitioner has already filed a suit for partition of the suit property and the same is pending adjudication in the Court.

I have heard counsel for the parties and perused the records particularly the impugned order.

Be that as it may, it is an undisputed position of the case that the electricity connection bearing No. SR-3-1015 stands installed in the premise in question in the name of the respondent/plaintiff. The electricity authorities/defendant has sought some information from the plaintiff vide letter No. 6208 dated 01.01.2013 that has been challenged by way of the suit and further sought to restrain from disconnecting the electricity connection in question. As the present petitioner is not a privy to the electricity connection in question which is a contract or license between the electricity authority and the respondent/plaintiff, I find no fault in the impugned order whereby plea of the petitioner for being impleaded as a party has been disallowed more particularly in the circumstances that the question with regard to ownership of the suit land is already pending in civil Court in a separate suit.

In view of what has been discussed herein-above, the present petition fails and is accordingly dismissed.

(Rekha Mittal)
Judge

02.06.2016

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