

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

CR No.7940 of 2016(O&M)

Date of decision:28.11.2016

Mishra Singh and others

....Petitioners

VERSUS

Kuldeep Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Kanwal Goyal, Advocate for the petitioners.

REKHA MITTAL, J.(Oral)

The present petition directs challenge against order dated 03.10.2016 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Moonak whereby application filed by the petitioners/defendants under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (in short 'CPC') for impleading the other co-sharers of the respondent/plaintiff as a party to the suit has been dismissed.

Kuldeep Singh –respondent/plaintiff has filed a suit for vacant possession of land bearing khewat No.120 khatoni No.327 mustatil and killa No.104//2(0-7) situated at village Harigarh Gehlan, Tehsil Moonak, District Sangrur claiming himself to be one of the co-sharers of the suit land. Mishra Singh – petitioner/defendant No.1 has claimed his ownership in possession of the suit land on the basis of oral exchange between Gajjan Singh, predecessor- in-interest of the respondent/plaintiff and defendant No.1 which was later reduced into writing dated 24.05.1992. As the respondent/plaintiff has claimed himself to be one of the co-sharers of the land being successor-in-interest of Sh. Gajjan Singh with the averments

that he has got no adverse interest against other co-sharers i.e. successors-in-interest of Sh. Gajjan Singh, admittedly erstwhile owner of the suit land, the respondent/plaintiff being the dominus litis cannot be compelled to implead other co-sharers as a party to the suit.

In this view of the matter, no fault can be found in the impugned order negating plea of the petitioners for impleading other co-owners of the respondent/plaintiff as a party to the suit. However, any observation made by the trial Court in the order impugned would not cause prejudice to the petitioners at the time of final disposal of the suit on merits.

In view of the above, the petition stands dismissed.

NOVEMBER 28, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no