

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.8041 of 2016

Date of decision: December 01, 2016

Labh Singh

...Petitioner

Versus

Gurdarshan Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rakesh Chopra, Advocate for the petitioner.

Rajan Gupta, J. (oral)

Present revision petition is directed against the order dated 2.11.2016 (Annexure P-1), whereby two applications filed by the petitioner, one U/O 1 Rule 10 CPC for impleading him in the array of defendant and another U/O 22 Rule 10 read with section 151 CPC for impleading him as plaintiff, have been dismissed.

Learned counsel for the petitioner has assailed the order. According to him, petitioner was having direct interest in the suit property being its owner on the basis of judgments and decrees dated 10.12.2010 and 07.12.2013 and the suit had been filed by the plaintiffs in collusion with the defendant. He has further submitted that since suit for specific performance filed by the petitioner against father of plaintiffs as well as defendant stood decided in his favour on 10.12.2010, petitioner is entitled to become plaintiff in the instant suit. He relies upon judgment

reported as ***Thomson Press (India) Ltd. vs. Nanak Builders & Investors P. Ltd. and others, 2013 (2) R.C.R. (Civil) 875.***

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, respondents No.1 and 2/plaintiffs filed a suit for permanent injunction against defendant/respondent No.3 to restrain the defendant from taking forcible possession of any specific portion of the suit land as detailed in the plaint. During pendency of the suit, petitioner filed an application U/O 1 Rule 10 CPC read with Section 151 CPC for impleading him as defendant on the ground that suit had been filed by the plaintiffs in collusion with the defendant in order to harm his interest. He also filed another application U/O 22 Rule 10 read with Section 151 CPC seeking to become a plaintiff on similar averments. The trial court dismissed both the applications by observing that it was nowhere his case that he was in actual possession of the suit property, thus, no cause of action accrued in his favour. I find no infirmity with the order passed. It is well settled that cause of action in a suit for permanent injunction accrues only when plaintiff is in actual possession of the property and unless he is not in actual possession, he cannot seek such relief. In the instant suit, plaintiffs are seeking to protect their possession over the suit property, meaning thereby they are in actual possession thereof. If the petitioner wanted to become a plaintiff, he had to prove his actual possession. Admittedly, a comprehensive suit titled as Sukhdev Singh & others vs. Labh Singh (petitioner herein), regarding rights of all concerned over the suit property, is already *sub judice* before the

competent court. Besides, the case is now fixed for final arguments today i.e. December 01, 2016. No further delay of proceedings is justified. The Judgment in *Thomson's case (supra)* is not applicable to the facts of the instant case. Present revision is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

December 01, 2016
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No