

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 8294 of 2015

Date of Decision: 17.05.2016

Subhash Jain HUF through Subhash Chander Jain Karta
... Petitioner(s)

Versus

Madhu Khanna and Another
... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Ms. Rahish Pahwa, Advocate
for the petitioner(s).

Mr. Sanjay Tangri, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition under Article 227 of the Constitution of India for setting aside order dated 20.10.2015, passed by learned Civil Judge (Junior Division), Ludhiana, whereby application, filed by the petitioner/plaintiff under Order 1 Rule 10 CPC and under order 6 Rule 17 CPC, was dismissed.

Learned counsel for the petitioner submitted that originally petitioner/plaintiff filed suit for declaration against Smt. Madhu Khanna

and Smt. Tilak Khanna. Respondent/defendants took the plea in the written statement, by way of preliminary objection, plaintiff has not added co-owner as party to the suit and on that basis application was filed so as to implead Manak Chand as proforma defendant, though no relief was claimed against him. However, he was a proper party to be impleaded in the litigation. But the Court below dismissed the application.

Learned counsel for the respondents submitted that merely taking of an objection by the respondents in the written statement does not make out a case for impleadment of anybody as a party to the litigation. It is for the Court to see whether a person to be impleaded is a necessary and a proper party and the Court below, while considering this aspect, rightly dismissed the application by passing impugned order which does not suffer from any illegality and as such present petition be dismissed.

Having considered the submissions made by learned counsel for the parties and appraisal of the record of the case, this Court is of the considered view that facts are not being disputed in any way that Manak Chand is a co-owner and his impleadment as such has been sought as proforma defendant only. Law on this point is settled that the Court can order for impleadment of a person, who is a necessary and a proper party. In the given circumstances, when Manak Chand is undisputedly a co-owner of the property, his impleadment as a party, though proforma defendant, is essential to enable the Court to effectively and completely adjudicate upon and settle all the questions

involved in the suit. Avoidance of multiplicity of litigation is also one of the object of the said impleadment. Such a view has been taken by the Hon'ble Apex Court in ***Savita Devi v. District Judge, Gorakhpur and Others AIR 1999 SC 976***. Similar matter was before this Court in ***Bhagwan Dass v. Managing Committee of H.R. Hindu High School, Hissar 1998(1) RCR (Civil) 557***, wherein it was observed as under:-

"When a party has direct interest in the litigation, he cannot be prevented from coming on record to safeguard his interest. Definitely he is a proper party. Application for impleading as party cannot be rejected on the ground that no relief has been claimed against the petitioner."

For the reasons recorded above, present petition is accepted and the impugned order dated 20.10.2015 is set aside. Consequently, application filed by the petitioner under Order 1 Rule 10 CPC and Order 6 Rule 17 CPC for seeking amendment on the basis of such impleadment stands allowed.

(Shekher Dhawan)
Judge

May 17, 2016

"DK"