

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.2100 of 2015(O&M)

Date of Order: 10.10.2017

Sandeep Goyal

..Petitioner

Versus

Smt. Sita Devi and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bikramjit Singh Patwalia, Advocate,
for the petitioner.

Mr. Aminder Singh, Advocate,
for respondent no.2.

ANIL KSHETARPAL, J (Oral)

Plaintiff-petitioner is in revision petition against the order passed by the trial Court allowing application under Order 1 Rule 10 CPC, to implead Ashok Kumar as defendant in the case.

Plaintiff-Sandeep Goyal had filed a suit for dissolution of the firm M/s Pooja trading Company, for rendition of accounts of the firm M/s Pooja Trading Company to recover the share of the plaintiff in the firm and a decree for permanent injunction.

M/s Pooja Trading Company was a partnership firm between Sandeep Goyal and Smt. Sita Devi. Ashok Kumar, applicant, is son of Sita Devi. After entering into partnership business, M/s Pooja Trading Company had taken on rent 2 bighas of land from one firm M/s Goyal Rice and General Mills, in which Ashok Kumar is partner.

During the pendency of dissolution of the firm and rendition of accounts, Ashok Kumar moved an application under Order 1 Rule 10 CPC, for being added as defendant. The aforesaid application has been allowed by the learned Court.

I have heard learned counsel for the parties at length and with their able assistance gone through the record of the case.

It is not in dispute that Ashok Kumar is nobody in the firm M/s Pooja Trading Company. He does not claim any right, title or interest in M/s Pooja Trading Company. He is only making a grievance that when Local Commissioner was appointed he had locked the entire premises of M/s Goyal Rice and General Mills. This fact is disputed by the plaintiff as it is claimed that the premises of M/s Goyal Rice and General Mills has been locked under the The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act').

Be that as it may, once it is found that Ashok Kumar have nothing to do with the partnership business of M/s Pooja Trading Company, he cannot be said to be necessary and proper party. The present suit is only with respect to dissolution of firm, rendition of accounts and for preserving the property of the firm during the pendency of the suit. Ashok Kumar is totally alien to the dispute involved in the present suit.

Ashok Kumar is son of Sita Devi. If the Local Commissioner has done something wrong, in locking the entire premises, the application can be filed through Sita Devi. However, Ashok Kumar cannot be impleaded party in the suit on this basis.

In these circumstances, the order passed by the learned Additional Civil Judge (Sr. Division), Sangrur, dated 18.02.2015, is clearly erroneous and is set aside. The revision petition is allowed.

October 10, 2017

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Whether speaking/reasoned

Whether reportable

(ANIL KSHETARPAL)

JUDGE

: Yes/No

: Yes/No