

CR No. 313 of 2017 (O&M)
DECIDED ON: FEBRUARY 01, 2017

.....PETITIONER

VERSUS

SHANKAR LAL (DECEASED) TH. LRS & ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Abhimanyu Singh, Advocate
for the petitioner.

JASPAL SINGH, J

Challenge in this revision petition is to the order dated December 14, 2016 (Annexure P-7) whereby an application under Order I Rule 10 read with Section 151 of the Code of Civil Procedure (for short 'Code') for impleading the petitioner as party/respondent has been dismissed with further prayer for directing the learned trial Court to implead him as party/respondent No.2 for effective adjudication of the case in pursuance to the judgment and decree dated September 30, 2016 (Annexure P-2) involving the same very property.

Learned counsel for the petitioner contended that plaintiff/respondent Shankar Lal (since deceased) filed a suit for declaration as well as for permanent injunction, which, in fact, is based upon false and

fabricated documents with a malafide intention to evict the petitioner from the suit property which is in his possession as tenant. Gobind Ram has no concern whatsoever, with the suit property. There exist no document or title in his favour. The real facts are that petitioner is in possession of suit property as tenant and in case respondent succeeds in obtaining the decree for declaration and permanent injunction, the rights of the petitioner shall be gravely prejudiced. Thus, the petitioner being a proper and necessary party deserves to be impleaded, so that he may protect his right. It would also enable the court to adjudicate the matter in issue effectively and completely.

This Court has given an anxious thought to the submissions made by learned counsel for the petitioner but does not find any legal or factual substance therein.

No doubt, under Order I Rule 10 of the Code enables the court to add any person as a party at any stage of the proceedings but if the person whose presence before the Court is necessary in order to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit. Avoidance of multiplicity of proceedings is also one of the objects of the said provision in the Code. Such an observation was made by the Hon'ble Apex Court in the case of *Savitri Devi v. District Judge; AIR 1999 SC 976; (1999) 2 SCC 577.* But at the same time, it would be pertinent to mention here that under Order I Rule 10 of the Code; impleadment can be ordered by the Court when it finds that in the absence of the applicant seeking impleadment as a party to the suit, the controversy raised in the suit cannot be effectively and completely settled.

Adverting to the facts of the case in hand, respondent No.1 has not

claimed any relief against the petitioner who has otherwise failed to highlight any ownership right in the disputed property. He is also claiming himself to be a tenant in the suit property under one Ram Niwas, who is none else but a real brother of defendant Gobind Ram. A relief has also been claimed against Gobind Ram by respondent No.1 to the extent of 1/3rd share. It is not the case of the petitioner that Ram Niwas is in exclusive possession of the suit property or that he is in possession of the entire suit property. Thus, in such a manner, the share of Ram Niwas is not in any way affected.

In the light of the afore-said discussion, this Court is of the considered view that the applicant is neither a necessary nor a proper party for the effective and proper adjudication of the matter in controversy. An application moved by the petitioner under Order I Rule 10 of the Code has rightly been dismissed by the learned trial Court and there is no infirmity or illegality in the impugned order. As such instant petition stands dismissed.

FEBRUARY 01, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*