

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

CR No.3243 of 2017.

Date of Decision: 08.05.2017.

Jangir Singh

....Petitioner.

VERSUS

Surjit Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Harkesh Manuja, Advocate for the petitioner.

SNEH PRASHAR, J.

Aggrieved by the order dated 17.04.2017 passed by learned Civil Judge (Junior Division), Malout dismissing the application under Order I Rule 10 read with Section 151 of the Civil Procedure Code (for short, 'CPC') filed by him, the instant petition has been filed by Jangir Singh, petitioner-defendant No.2.

A suit for recovery of Rs.4,03,760/- i.e. Rs.2,88,400/- as principal amount and Rs.1,15,360/- as interest thereon at the rate of 2% per month had been filed by Surjit Singh, plaintiff-respondent No.1. During the trial of the case, the defendants (including the petitioner) filed an application under Order I Rule 10 read with Section 151 CPC for impleading one Jagjit Singh son of Jaimal Singh, resident of village Chhapianwali, Tehsil Malout, District Sri Muktsar Sahib as party to the suit on the ground that he had been managing the affairs of M/s J.B.S. Trading

Co. (defendant No.1). All account books of the company are in his possession and he had produced the same in other cases also. The instant suit had been filed by plaintiff Surjit Singh in connivance with said Jagjit Singh who misusing his powers had wrongly issued some J-forms. Therefore, he is a necessary and proper party to the suit.

The plaintiff-respondent No.1 Surjit Singh admitted Jagjit Singh to be Manager of the defendant company but submitted that he was only an employee and was not necessary party to the suit.

Considering the submissions made by counsel for the parties, learned trial court dismissed the application filed by the petitioner-defendants.

The submissions made by Mr. Harkesh Manuja, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner argued that Jagjit Singh is in possession of the entire account books of the company. As per pleadings of the petitioner, Jagjit Singh had misappropriated the funds of the company and had also forged many documents, therefore, he is an appropriate party to the suit.

There appears no merit in the argument of learned counsel for the petitioner. It comes out from the contention of the petitioner and the facts mentioned in the impugned order that Jagjit Singh is only a manager-employee of the company. Indeed, in his capacity as a manager, he may be preparing the account books and other documents of the company, but even if it is accepted for the sake of argument that he had been misappropriating the funds or forging the documents and is liable for any criminal action, yet

party to the suit for recovery filed by the plaintiff-respondent against the company and its partners. The petitioner/ the company may presecute him for any criminal action done, but simply because he is in possession of the account books, he cannot be impleaded as party to the instant civil suit.

It is also noteworthy, as is mentioned in the impugned order, that the application for impleading Jagjit Singh as party to the suit was filed by the petitioner-defendant at the fag end of the case i.e. after availing ten effective opportunities for leading their evidence. Apparently, only to delay the trial of the case, the application had been filed.

There being no illegality, perversity or jurisdictional error warranting interference in the order of learned trial Court, the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

08.05.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**