

CR No.332 of 2017 (O&M)

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

Sr. No.116

**CR No.332 of 2017 (O&M)
DECIDED ON: April 24, 2017**

PRABHJOT SINGH

..PETITIONER

VERSUS

NAVEEN VADHERA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Namit Gautam, Advocate,
for the petitioner.

JASPAL SINGH, J.

CM Nos.5200 & 7941-CII of 2017

Applications are allowed as prayed for.

Documents (Annexures P-9 to P-11) are taken on record subject
to all just exceptions and be tagged at appropriate place.

CR No.332 of 2017

Challenge in this revision petition preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of order dated December 16, 2016 (Annexure P-8), passed by learned Civil Judge (Jr. Divn.) Ludhiana, whereby an application moved by the petitioner under Order I Rule 10 CPC for impleading him as party in Civil Suit No.973 dated December 10, 2010 captioned as ***Naveen Vadhera vs. Jagtar Singh @ Tara Singh and another*** has been dismissed.

2. Assailing the impugned order dated December 16, 2016, it has been argued with vehemence by learned counsel for the petitioner that same is absolutely against provision contained in Order I Rule 10 CPC as well as other settled canons of law. In fact, petitioner is owner of the shop in question on the basis of sale deed No.775, dated December 02, 2015 executed by legal heirs of Smt. Ind Kaur namely Jagtar Singh and others for a valuable sale consideration of Rs.3,00,000/-. Since, shop in question is the subject matter of dispute in between Naveen Vadhera vs. Jagtar Singh @ Tara Singh and another, petitioner moved an application under Order I Rule 10 CPC, which has been dismissed without any rhyme and reason by learned trial court vide impugned order dated December 16, 2016, which has resulted into miscarriage of justice. Since, petitioner is bonafide purchaser for a valuable consideration, he has legal right to defend the case. Moreover, petitioner is not only a necessary party but a proper party also as matter in controversy which pertains to subject matter of sale deed referred to above is involved in the suit and in the absence of petitioner, said controversy cannot be decided effectively and judiciously. No effective

decree can be passed in his absence. Thus, impugned order is not sustainable in the eyes of law and is liable to be set aside.

3. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but does not find any legal and factual force therein.

4. A glance at the impugned order dated December 16, 2016 transpires that subject matter of the suit titled as Naveen Vadhera vs. Jagtar Singh @ Tara Singh and another has been described to be bounded as East Road, West Nachhattar Singh and others, North-Road and South-Charan Singh and others situated at Village Dehlon, Tehsil and District Ludhiana on Malerkotla Road, which is stated to be in possession of Jagtar Singh @ Tara Singh as a tenant. Through the above referred suit, plaintiff-Naveen Vadhera has sought the possession of aforesaid shop as well as recovery of damages by way of mesne profit for the period from December 01, 2007 to November 30, 2010 along with interest @ 12%.

5. The suit was instituted in the year 2010 and prior to that defendants also filed a suit seeking injunction against plaintiff-Naveen Vadhera not to dispossess them illegally and forcibly but said suit was subsequently withdrawn by Jagtar Singh and another on October 16, 2000. Thereafter, plaintiff purchased the suit property vide different sale deeds and on September 29, 2003, he became the exclusive owner of entire building and shop in question. However, subsequently, it has been alleged by the petitioner that Smt. Ind Kaur and others were owners of the shop in question, which was purchased by petitioner vide Sale Deed No.775, dated December 02, 2015. But there is nothing on record to establish at this stage

Smt. Ind Kaur etc. were owners of disputed shop or that disputed shop is a part of Khasra No.125/1/2/1 comprised in Khatta No.806/863 measuring 0K 1M. In fact, a glance at the copy of the sale deed transpires that subject matter of sale deed has been described as plot which is not situated within municipal limits. Moreover, plaintiff and defendants are litigating for the last more than seven years and even plaintiff allegedly purchased the suit property during the pendency of suit, in which, he has moved an application under Order I Rule 10 CPC for his impleadment as a party. The property allegedly purchased by the petitioner is entirely different and separate property, which has been purchased by him from some different persons, that too, after purchase of shop in question by plaintiff/respondent No.1. Moreover, relationship of landlord and tenants has reached between plaintiff-Naveen Vadhera and defendant No.1-Jagtar Singh since 2007, which has subsequently purchased from Amrik Singh and Nachhattar Singh, the actual owners of disputed shop and from whom shop in question has taken on rent by him earlier. Thus, in the aforesaid facts and circumstances of the case, this Court is of the considered view that petitioner is neither a necessary nor a proper party and controversy involved in above referred suit can be decided effectively and judiciously in his absence. Learned trial court has rightly dismissed an application finding the same to be without any merit. This Court also does not find any infirmity, illegality or perversity in the impugned order dated December 16, 2016 so as to cause any interference therein.

6. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, same is dismissed

whereby impugned order dated December 16, 2016 is upheld.

7. No order as to costs.

April 24, 2017
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No