

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3459 of 2014
Date of Decision:- 13.12.2017

Balwinder Singh

.....Petitioner

Versus

Veena Garg and others

.....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Arihant Jain, Advocate, for the appellant.

Mr.Akshay Goel, Advocate, for respondent No.1.

Mr.Deepak Aggarwal, Advocate, for respondents No.12 to 18.

RITU BAHRI, J. (Oral)

The petitioner has come up in revision against the order dated 15.03.2014 whereby, two applications one under Order 14 rule 1,2 and 5 CPC and another application under Order 22 Rule 4 CPC filed by plaintiff/respondents was made for reframing the issue and impleadment of LR's of respondent No.8 have been dismissed.

The brief facts of the case, the respondent-plaintiff filed a suit for permanent injunction against defendant No.1/Satinder Kaur and the Defendant No.2 Jasbir Kaur only. The plaintiff filed the suit for permanent injunction restraining the defendants, their agents and attorneys from alienating, selling, transferring, mortgaging or disposing of their 1/5th share out of the land in dispute. The respondent-plaintiff filed an application under Order 6 Rule 17 CPC for amendment of the plaint. The said application was allowed on 14.12.2007. The plaintiff impleaded defendants No.3 to 19 and amended the relief and the pleadings. A copy of the amended plaint dated 14.09.2006 was attached herewith as Annexure P-1. The defendants No.3 to 9 and 11 to 18 filed written statement on 13.09.2008. Thereafter, the remaining defendants were served through publication and were proceeded against ex-parte vide order dated 30.01.2009. On 10.04.2009, the replication was filed and the following issues were framed:-

1. Whether the plaintiff is entitled for permanent injunction as prayed for ? OPP.

2. Whether the suit is not maintainable? OPD.
3. Whether the plaintiff has got no locus-standi and cause of action to file the present suit? OPD.
4. Whether the suit of the plaintiff is barred under Section 41(h) of Specific Relief Act? OPC.
5. Relief.

Learned counsel for the petitioner filed an application under Order 9 Rule 7 CPC and thereafter an application dated 06.04.2012 under Order 14 Rule 1,2 and 5 read with Section 151 CPC (Annexure P-2) was made for reframing the issues and the same has now been dismissed along with application under Order 22 Rule 4 CPC read with Section 151 for impleading the LR's of respondent No.18 i.e. Hardial Singh (Annexure P-3).

This Court of the opinion that after amendment of plaint, the necessary issues with regard to specific performance is very much required for correct decision of the main suit. The power to frame additional issues is vested even at the appellate stage in the appellate Court for correct decision of the case and even the application for impleading the LR's of respondent No.8 is also required to be allowed for impleading them as necessary party in the suit.

In view of the above, revision petition is allowed and the impugned order dated 15.03.2014 is set aside. The trial Court is directed to proceed further in accordance with law with regard to the application dated 06.04.2012 under Order 14 Rule 1,2 and 5 read with Section 151 CPC (Annexure P-2) for reframing the additional issues and application under Order 22 Rule 4 CPC read with Section 151 for impleading the LR's of respondent No.18 i.e. Hardial Singh (Annexure P-3) is also allowed so that all the legal representatives of respondent No.18 can be impleaded as party.

13.12.2017
anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>