

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

CR No.3386 of 2017.

Date of Decision: 11.05.2017.

Fateh Singh

....Petitioner.

VERSUS

Sourabh Siksha Samiti and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

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

SNEH PRASHAR, J.

The instant revision petition has been filed assailing the order dated 20.04.2017 passed by learned Civil Judge (Junior Division), Indri allowing the application under Order I Rule 10 of the Civil Procedure Code (for short, 'CPC') filed by respondents No.2 and 3 for being impleaded as party to the suit filed by the petitioner-plaintiff against respondent No.1 Sourabh Siksha Samiti.

The submissions made by Mr. Virender Singh, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner argued that a Pattanama (lease deed) No.776/1 dated 07.06.2013 was executed by the petitioner in favour of respondent No.1-Sourabh Siksha Samiti, Biana for a period w.e.f. 04.06.2013 to 04.06.2043. As per terms of the Pattanama, Rs.32,000/- per year was to be paid by the lessee to the petitioner and after three years, the

failed to adhere to the terms and conditions of the lease deed and the agreement regarding enhancement of the lease money, he filed the instant suit praying for decree of declaration that the lease deed is illegal, null and void and also sought relief of mandatory injunction directing the respondent Samiti to hand over to him possession of the land in question. The Samiti has been sued through the manager who has appeared and is representing the said respondent. Respondents No.2 and 3 filed an application for being impleaded as party to the suit and learned trial court legally erred in allowing their application. They are neither necessary nor proper party in the suit as it was not their case that the petitioner had sought any relief against them. As far as impleadment of party is concerned, the plaintiff being “dominus litis” may choose the persons against whom he wishes to litigate and cannot be compelled to sue a person against whom he does not seek any relief.

There appears no force in the arguments of learned counsel for the petitioner. Learned counsel could not deny that respondents No.2 and 3, who moved application under Order I Rule 10 CPC for being impleaded as party to the suit, are members of the respondent Samiti. It is the case of the petitioner himself that he had executed a Pattanama for the period w.e.f. 04.06.2013 to 04.06.2043 in favour of the respondent Samiti. Now, with an intention to get the lease deed cancelled, he has filed the present suit by impleading the respondent Samiti through its manager. The other members of the governing body of the respondent Samiti, who also have charge over the movable and immovable property of the respondent Samiti, have not been impleaded. The reasons recorded by learned trial court for allowing the application of respondents No.2 and 3 are as under:-

“Perusal of lease deed dated 05.06.2013 shows that lease of disputed land was granted by plaintiff Fateh Singh in favour of Sourabh Siksha Samiti and now plaintiff filed the present suit for cancellation of the aforesaid lease deed . From memorandum of the association of the society placed on record it is clear that Fateh Singh son of Ram Kishan (plaintiff in the present suit) is vice president of the Samiti and Rampal (defendant) is manager of the Samiti and applicants are members of the Samiti. From the terms and condition laid down by the memorandum of the association it is clear that Governing body including the members shall have full charge of all the immovable property. From the aforesaid facts it appears that Vice President and manager of the society in collusion with each other in order to bypass the interest of members of the governing body filed the present suit and interest of the applicants would be effected by the decision of the present suit. Hence, this court is of view that being members of Sourabh Siksha Samiti the applicants are proper and necessary party in the present suit and they must be impleaded as party in the interest of justice. Hence, the present application is hereby allowed.”

Learned counsel for the petitioner could demonstrate no illegality, perversity or jurisdictional error in the order of learned trial court. When noticed by learned trial Court the memorandum of association of the respondent Samiti provides that the governing body including the members have complete charge over the immovable property of the Samiti, the matter

in dispute cannot be effectively and completely adjudicated upon by the Court in the absence of the governing body. The land taken on lease by the Samiti would be included in the immovable property of the Samiti over which the governing body including the members have a charge. The manager alone would not be competent to take a decision with regard to such immovable property as well as the lease agreement between the parties.

Thus, finding no ground for intervention in the order of learned trial court, the instant petition, being devoid of merit, is hereby dismissed.

(SNEH PRASHAR)
JUDGE

11.05.2017.
jitender sharma

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

Whether Reportable : **Yes/ No**