IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR No.3414 of 2017.
Date of Decision: 11.05.2017.

M/s New Age Contractors and Consultants ....Petitioner.

VERSUS

HDFC Bank Ltd. and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Amit Kumar, Advocate for the petitioner.

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SNEH PRASHAR, J.

The instant revision petition has been filed assailing the order dated 27.02.2017 passed by learned Civil Judge (Junior Division), Khanna allowing the application under Order I Rule 10 read with Section 151 of the Civil Procedure Code (for short, 'CPC') filed by respondents No.1 to 3-HDFC Bank Ltd. for impleadment of respondent No.4-AIPL Ambuja Housing and Urban Infrastructure Limited (for short, 'AIPL') as party to the suit filed by the petitioner-plaintiff against respondents No.1 to 3- HDFC Bank Ltd.

The submissions made by Mr. Amit Kumar, learned counsel representing the petitioner have been considered.

The relevant facts as they emerge from the averments of the petitioner and the impugned order are that the petitioner firm filed a suit for permanent injunction against the bank (respondents No.1 to 3) for encashing the bank guarantee amounting to Rs.9,30,501/- dated 28.12.2013. During pendency of the suit, respondents No.1 to 3 invoking the provisions of Order I Rule 10 read with Section 151 CPC filed an application for impleadment of respondent No.4-AIPL as party to the suit which though was opposed by the petitioner-plaintiff, but was allowed by learned trial court vide the impugned order dated 27.02.2017.

Learned counsel for the petitioner argued that the bank guarantee amounting to Rs.9,30,501/- is in continuous and exclusive possession of the petitioner. It was never utilized for any contractual purpose and respondent No.4-AIPL has not extended the contract with the petitioner. It is only to prolong the litigation and cause financial loss to the petitioner that respondents No.1 to 3 had filed an application for impleadment of respondent No.4-AIPL as party to the suit. The matter in issue is only between the petitioner and the bank (respondents No.1 to 3) and respondent No.4-AIPL is neither necessary nor proper party to the suit. Learned trial court legally erred in allowing the application for impleading the said company as party to the suit.

It has been observed by learned trial court in the impugned order that respondents No.1 to 3-bank have specifically pleaded in their written statement that AIPL through its Vice President has lodged a claim with the bank for encashment of the bank guarantee amounting to Rs.9,30,501/- dated 28.12.2013 whereas the petitioner-plaintiff had filed the instant suit for release of the bank guarantee in his favour. The facts recorded in the impugned order also indicate that the petitioner-plaintiff had earlier filed a suit for mandatory injunction seeking direction to the bank not to encash the bank guarantee and to credit amount into its account. The matter in dispute in the said suit was referred to an Arbitrator. It is not the case of the petitioner that the Arbitrator has made an award. Apparently, both, the petitioner as well as the AIPL, are claiming the amount of bank guarantee. The bank guarantee in question was furnished in favour of respondent No.4-AIPL and the petitioner by way of the instant suit is seeking direction to the bank to release the bank guarantee in its favour. In said set of facts, it was, indeed, necessary to implead respondent No.4-AIPL as party to the suit for adjudication of the matter in dispute effectively and completely.

Thus, there being no illegality, perversity or jurisdictional error calling for intervention in the order of learned trial court and the 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**