

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

CR No.459 of 2016

Date of Decision: 21.08.2017

Ran Singh

.....Petitioner

Vs

Ramphal and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Anurag Jain, Advocate
for the petitioner.

Mr. C.R. Olla, Advocate
for respondents No.1 and 2.

Ms. Neesh Garg, Advocate for
Ms. Bhavna Joshi, Advocate
for respondents No.3 and 4.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has filed this revision petition against the order dated 12.01.2016 passed by Civil Judge (Junior Division), Hisar, whereby application under Order 1 Rule 10 CPC moved by the petitioner was dismissed.

[2]. The material on record reveals that mother of the petitioner namely Jamna received the suit land from her husband Rati Ram. A Civil Court Decree dated 16.10.1971 in Civil Suit No.79 of 1971 titled Ran Singh Vs. Jug Lal etc. was suffered in favour of the petitioner, wherein Smt. Jamna was party defendant No.2. After the aforesaid decree, mutation could not be sanctioned. Thereafter, mother of the petitioner suffered

one more decree dated 15.02.1985 in favour of defendants No.1 and 2/respondents No.1 and 2. Respondents No.3 and 4 challenged the aforesaid decree dated 15.02.1985 to be illegal. Consequential relief of permanent injunction was also sought, restraining the defendants from alienating the suit property in excess of their shares i.e. 1/4th each. The mutation sanctioned on the basis of aforesaid decree was also challenged.

[3]. In the pending suit, the petitioner filed an application under Order 1 Rule 10 CPC for impleading himself as party defendant. The said application was dismissed on the ground that Civil Court Decree dated 16.10.1971 was not under challenge in any manner in the suit, therefore, the plaintiffs being *dominus litis* cannot be forced to fight litigation against a person against their wishes.

[4]. Evidently, the suit property involved in both the decrees is the same. Due to non-sanctioning of mutation in pursuance of Civil Court Decree dated 16.10.1971, a subsequent decree was suffered by the mother of the petitioner, thereby conferring the property in question in favour of her grand children i.e. defendants No.1 and 2. Non-sanctioning of mutation would be of no consequence as the petitioner was having interest in the property by virtue of Civil Court Decree dated 16.10.1971. Since the property involved in both the suits is the same, therefore, in my considered view, the petitioner is a necessary and proper

party to be impleaded in the present suit.

[5]. At this stage, learned counsel for the petitioner submitted that keeping in view the stage of the suit, he will not lead any evidence on record except to file written statement and counter claim, if any. Plaintiffs have made no objection to the application for impleading the petitioner as party defendant in the suit. The application was only contested by defendants No.1 and 2.

[6]. The earlier application moved by the plaintiffs for impleading the applicant was dismissed in which petitioner had no opportunity of hearing. Even otherwise, I am of the view that the order, if any, passed at the instance of the plaintiffs in not entertaining the prayer for impleadment of the applicant would not come in any way for effective disposal of the case, for which petitioner is a necessary and proper party.

[7]. In view of above, the order dated 12.01.2016 passed by Civil Judge (Junior Division), Hisar, is hereby set aside. The application filed by the petitioner under Order 1 Rule 10 CPC is allowed. Trial Court is directed to take corrective measure and thereafter, proceed in accordance with law.

[8]. Disposed of.

August 21, 2017.

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No