

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

**CR No.4705 of 2016(O&M)
Date of Decision: 26.07.2017**

Bhushan Lal Singla

.....Petitioner

Vs

Santosh Singla and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Tribhawan Singla, Advocate
for the petitioner.

Mr. Sanjeev Sharma, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has filed this revision petition against the order dated 05.07.2016 passed by Additional Civil Judge, Senior Division, Amloh, whereby application under Order 1 Rule 10 CPC filed by the petitioner was dismissed.

[2]. Plaintiffs namely Santosh Singla and M/s Singla Steel & Agro Industries through its sole proprietor Santosh Singla (plaintiff No.1) filed a suit for declaration to the effect that the plaintiff is still the owner of the suit property. Declaration was sought in respect of sale deed dated 25.09.2007 allegedly executed by defendant No.1 in favour of defendant No.2 i.e. wife of defendant No.1 being illegal, fraudulent, null, void and without consideration. The possession of the suit property was also sought along with permanent injunction restraining the

defendants from creating any encumbrance over the suit property.

[3]. The aforesaid suit was filed on the basis of sole proprietorship of Santosh Singla in respect of M/s M/s Singla Steel & Agro Industries. Earlier, there was a partnership firm of which Santosh Singla and Bhushan Lal Singla (petitioner) were the partners. The said partnership firm was dissolved on 09.09.1988 and thereafter, Santosh Singla became the sole proprietor of the said firm. The sale tax number issued in the name of partnership firm was got cancelled and thereafter, plaintiff applied for sale tax number as proprietor of the firm in question.

[4]. Petitioner filed a suit for permanent injunction in which para No.4 was to the following effect:-

“That it came into the knowledge of the plaintiff that the defendant No.2 with the help of defendant No.1 has prepared a forged dissolution deed by forging the signatures of the plaintiff on the said deed but actually the plaintiff has never signed any such document nor the said document has been prepared in the presence of the plaintiff. The firm is still in existence.”

[5]. During the proceedings of the aforesaid suit, an application was filed by the petitioner, the then plaintiff in the aforesaid suit for production of documents viz. the original alleged dissolution deed dated 09.09.1988, copy of account

through Bhushan Lal Singla partner and balance-sheet. Though the application was contested by the respondents, but the perusal of the order dated 20.03.1989 passed by Sub Judge, First Class, Amloh shows that the documents were produced in the Court and were seen by the petitioner (plaintiff in suit for permanent injunction). The application was dismissed as not pressed vide order dated 20.03.1989 and after framing of issues, the suit was ultimately got dismissed as withdrawn on 26.05.1989. No opportunity was sought and granted by the Court while dismissing the suit as withdrawn. The factum of dissolution deed was duly brought to the notice of the petitioner and the cause of action for challenging the aforesaid dissolution deed came to fore in the year 1988 itself.

[6]. During course of arguments, it has been revealed that no challenge has been made by the petitioner to the dissolution deed of 1988 till date. In the suit filed by the petitioner on the basis of sole proprietorship, petitioner wants to add a cause of action, which is totally inconsistent with the plea of the plaintiff. The entire case of the petitioner is dependent upon the partnership firm, which was dissolved in the year 1988 and thereafter, necessary documentations in terms of sale tax number etc. were duly in the name of sole proprietorship. The plaintiffs have also opposed the application of the petitioner under Order 1 Rule 10 CPC.

[7]. In view of above, I find that the petitioner cannot be allowed to introduce any such plea, which is totally inconsistent with the pleaded case of the plaintiff by way of allowing him to be impleaded with the aid of Order 1 Rule 10 CPC. The impugned order dated 05.07.2016 passed by Additional Civil Judge, Senior Division, Amloh is not found to be suffered with any error of jurisdiction or perversity. Consequently, the present revision petition is dismissed.

[8]. Any observations made hereinabove shall not be construed to be an opinion on ultimate merits of the case.

July 26, 2017.

(RAJ MOHAN SINGH)
JUDGE

Prince

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No