

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

**CR No. 4478 of 2017 (O&M)
Date of Decision: 12.07.2017**

Sunita Yadav

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Harkesh Manuja, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

The trial Judge by an order of his dated the 20th of May, 2017 has allowed the application filed under Order 1 Rule 10, of the Code impleading the applicant as party defendant-4. The dispute is regarding allotment of a plot No. 1246 measuring 250 Sq Yards situated at Wazirabad in District Gurgaon. The status of the corpus in the suit rests on the Share Certificate No. 1489 dated 14th of April, 1991. While the plaintiff claims rights under the Share Certificate, the person applying for impleading him as party defendant likewise draws rights from the same Share Certificate as his letter of allotment bears a different date, but, indisputably the suit corpus is the same and therefore, defendant-4 claims superior rights to property over the plaintiff. In my opinion, the applicant-defendant-4 has, in any event, a substantial interest and sufficient locus to enter the suit and be heard on his rights with the right to file written statement so that ultimately the truth is revealed on evidence adduced by the parties to the trial.

Learned counsel for the petitioner says that defendant-4 Share Certificate is different, and, therefore, he had no case in the application.

Be that as it may, the order dated 20th of May, 2017 permitting the applicant to be added as defendant-4 is a direction issued to avoid a retrial of the case so that the entire controversy is set to rest. because of if the certificate of defendant-4 is found to be false and the suit of the plaintiff succeeds then defendant-4 would have exposed himself to both civil and criminal liability qua the disputed certificate and allegations if fail the trial court would be free to consider imposing suitable costs on defendant-4 in case the findings are ultimately against him, involving allegations of forgery and fabrication of the moot document upon which valuable rights to immovable property rest.

One other point needs to be addressed before parting with the order which lies in the argument of Mr. Manuja and which is that apparently an observation has come in para. 7 of the impugned order that the document on which both the parties are presently placing reliance has been issued by the Saraswati Kunj House Building Society that it is a forged and fabricated share certificate. Needless to say, this is not a finding of fact which can only come upon evidence produced by the parties at the end of the trial and is an observation to my mind only a figure or speech adopted by the Civil Judge in the making of the impugned order which can easily be disregarded at this stage so as not

to cause prejudice the parties. I am certain that the trial Judge will disregard it till he has the entire evidence in hand at the final hearing of the case in the future.

With these observations and directions, the petition is found without substance and is consequently dismissed.

(RAJIV NARAIN RAINA)
JUDGE

12.07.2017

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