

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

CR No. 5281 of 2017(O&M)

Date of decision: 16.11.2017

Sukhwinder Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Akhilesh Vyas, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

CM No23242-CII of 2017

Heard.

Allowed as prayed for.

Affidavit of Sukhwinder Singh is taken on record.

Disposed of accordingly.

CR No.5281 of 2017

Challenge in the present petition has been directed against order dated 17.05.2017 passed by the Civil Judge (Junior Division), Amritsar whereby application filed under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') by the petitioner has been dismissed.

Counsel for the petitioner has submitted that his brother Kulbir Singh – respondent No.4 has filed the civil suit titled **Kulbir Singh Vs. Punjab State and others** in which Surinder Pal son of late Sh. Munni Lal has been impleaded as defendant No.3. It is further submitted that in the head-note and para 9 of the plaint, there is reference that defendant

No.3 had sold certain land since long in favour of the plaintiff being the legal heir of Munni Lal but the defendant is representing his father's name as Kewal Krishan, got Government service in Police Department by making misleading statements and fabricating documents. It is further argued that the petitioner and his brother Kulbir Singh are not on cordial terms as is apparent from the FIR lodged by the petitioner against Kulbir Singh and his son. It is further argued that as the petitioner is also one of the vendees under the sale deed dated 15.09.1992 executed by Kewal Krishan, Mohinder Pal, Sawinder Pal sons of Muni Lal and Tripta Rani daughter of Muni Lal and the petitioner is in cultivating possession of the said land, the petitioner is required to be impleaded as a party to protect his interest in the *lis*, even if he is not held to be a necessary party for complete and effective adjudication of the matter in controversy. It is further submitted that any finding recorded by the Court on the basis of allegations raised by Sh. Kulbir Singh is likely to affect adversely to the petitioner, therefore, he is required to be impleaded as a party.

I have heard counsel for the petitioner, perused the paper-book particularly the plaint, written statement of defendant no.3, application under Order 1 Rule 10 read with Section 151 CPC, reply thereto and the order impugned.

Before advertng to the submissions made by counsel for the petitioner, it is appropriate to recapitulate that the plaintiff is a master of his case and he cannot be compelled to contest against a party against whom he does not want to litigate. In the case at hand, respondent/plaintiff has not claimed any relief against the petitioner. Even the sale deed purported to be executed by Sh. Surinder Pal is not the subject matter of *lis* though it has been mentioned that defendant No.3 sold land in favour of

the plaintiff being legal heir of Muni Lal but now he is representing himself to be son of Kewal Krishan and got the Government job by making false and misleading representation. As the plaintiff has not claimed any relief against the petitioner and the sale deed stated to be in favour of the petitioner is not the subject matter of dispute in the present litigation, the petitioner is neither a proper much less a necessary party to be impleaded on the array of defendants. In this view of the matter, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

NOVEMBER 16, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no