

227

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

**Civil Revision No.5804 of 2015
Date of Decision: 24.10.2017**

BRAHAMPAL SINGH

.....Petitioner

Vs

ANOOP SINGH AND ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ajay Singh Ghangas, Advocate
for the petitioner.

Mr. Jagjot Singh, Advocate for
Mr. Kunwal Dawar, Advocate
for respondent No.1.

Mr. Nihul Pratap Singh, Advocate
for respondents No.3 to 7.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 15.05.2015 passed by the Civil Judge (Jr. Divn.) Faridabad vide which application under Order 1 Rule 10 CPC filed by him was dismissed.

[2]. Brief facts are that respondent No.1 filed a civil suit for possession by way of partition with consequential relief of permanent injunction on 12.01.2011 against the petitioner as

well as other co-sharers in the joint land. Specific pleadings were made in the said suit that on account of compromise and family settlement, Khasra No.88/10/2 land measuring 1 *Kanal* 10 *Marlas* fell to the exclusive share of the plaintiff therein, but later on defendants No.1 to 4 i.e. petitioner Brahampal Singh and others forcibly took the possession of Khasra No.88/10/2 without any right and reason and have constructed the site over it. Thereafter after three days of filing the said suit, the present suit for permanent injunction came to be filed without impleading the petitioner as party defendant.

[3]. Learned counsel for the petitioner submitted that the application under Order 1 Rule 10 CPC has been rejected primarily on the ground that the plaintiff does not wish to contest with the applicant-petitioner and the portion of disputed *rasta* falls in front of the house of the plaintiff and defendants only and the property of the applicant-petitioner does not touch the disputed portion of the *rasta*.

[4]. Learned counsel further submitted that the entire land has already been acquired by the State and the plaintiff/respondent Anoop Singh has already raised the construction as he has also filed a civil writ petition for the release of the land, but the same was dismissed. On the other hand, the portion constructed by the petitioner has already been

proposed to be released by the Land Acquisition Authorities.

[5]. I have heard learned counsel for the parties.

[6]. In view of entirety of facts and circumstances of the case, the petitioner requires to be impleaded as party defendant in the suit for permanent injunction as he has been proved to be in possession of the property *qua* which relief is being sought by the plaintiff/respondent Anoop Singh.

[7]. In view of above, this revision petition is allowed and the impugned order dated 15.05.2015 passed by the Civil Judge (Jr. Divn.) Faridabad is set aside. Normal consequences to follow.

October 24, 2017

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No