

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

CR No. 5948 of 2017(O&M)

Date of decision: 8.9.2017

Satpal Kaur

....Petitioner

VERSUS

Basant Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. P.K. S. Phoolka, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

The present petition directs challenge against order dated 02.08.2017 (Annexure P-1) passed by the Civil Judge (Junior Division), Bathinda whereby application under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') for impleading the petitioner as a party in the suit titled Basant Singh and others Vs. Babu Singh has been dismissed.

Counsel for the petitioner has submitted that the petitioner is owner in possession of land measuring 12 marlas comprising khasra No.105//5/2 (0-3) and 5/1 min (0-9) having been purchased vide registered document No.1930 dated 05.10.2016 situated at village Ganga. It is further submitted that though no water course exists on the land owned by the petitioner but by filing the suit for injunction, the respondents want to create some right in respect of the land owned by the petitioner, therefore, impleadment of the petitioner as a party is proper if not necessary for complete and effective adjudication of the matter in controversy. The last submission made by counsel is that the trial Court failed to appreciate the

matter in right perspective and seriously erred by rejecting the application filed by the petitioner.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

Respondents Basant Singh and others have filed suit for permanent injunction restraining Babu Singh from demolishing water course (khal) shown in site plan from Point A to B in red colour or interfering in peaceful possession of the plaintiffs in khasra No.105//5/4, 105//5/5, 105//7/2 and 105//6/2 situated at village Ganga, tehsil and District Bathinda. The cause of action to file a suit for injunction is personal in nature and as the respondents/plaintiffs have not claimed any relief of injunction against the petitioner by leveling any allegations against the petitioner qua invading their right in the suit property, the petitioner cannot be said to be a necessary party for adjudication of the matter in controversy. This apart, no such plea has been raised in the application under Order 1 Rule 10 read with Section 151 CPC (Annexure P-3) filed by the petitioner that in the guise of claiming their right to the water course reflected from Point A to B in the site plan, respondents/plaintiffs wants to take over possession of the property/land owned by the petitioner. The land which is stated to be owned by the petitioner on the basis of document No.1930 dated 05.10.2016 comprises of khasra No.105//5/2 (0-3) and 5/1 min (0-9) which is not the subject matter of suit filed by Basant Singh and others. Under the circumstances, I do not find any error much less illegality in the impugned order warranting intervention in exercise of supervisory jurisdiction by this Court.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, nothing stated hereinbefore shall cause prejudice to either of the parties to the suit at the time of final adjudication.

SEPTEMBER 8, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

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