

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

CR No.6871 of 2017(O&M)

Date of decision: 1.11.2017

Lovepreet Singh

.....Petitioner

VERSUS

Niranjan Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Kamal S. Brar, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 21.08.2017 (Annexure P-4) passed by the Additional Civil Judge (Senior Division), Sri Muktsar Sahib whereby application under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') filed by the petitioner to implead him as a party on array of defendants in civil suit titled **Niranjan Singh etc. Vs. Baba Sidh Co-operative Society, Malout** has been dismissed.

Counsel for the petitioner has submitted that Niranjan Singh and Jagdish Singh sons of Hakam Singh, respondents No.1 and 2, have filed a suit for mandatory injunction directing the defendants to complete construction of permanent water-course Mark F1/1 to F1/2 depicted in sanctioned site plan pertaining to water outlet No.38590-L Bhagsar Minor of village Nandgarh, Tehsil and District Sri Muktsar Sahib. It is further submitted that as part of the water course in question passes through land of Rectangle No.48 killa No.8 (8-0) owned by the petitioner and the scheme for sanction of the water-course has been sanctioned without notice

to the applicant-petitioner, the petitioner has interest in the lis and required to be impleaded as a party. It is further submitted that a serious prejudice is likely to be caused to the petitioner in case he is not permitted to be impleaded as one of the defendants in the case.

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

Be that as it may, it is undisputed position of the case that respondents/plaintiffs have filed the suit for injunction in the form of issuance of a mandate to the official defendants to complete the construction job pertaining to water course sanctioned by the Canal Authorities. In case the petitioner has not been heard in the matter at the time of sanction of the scheme, the petitioner may avail appropriate remedy in law either by filing proceedings under the Canal and Drainage Act, 1873 (in short ‘the Act’) or any other alternative remedy in accordance with law. At this stage, it is difficult to say if the Civil Court can have jurisdiction to entertain much less accept plea of the petitioner giving challenge to the sanctioned scheme in view of the bar against jurisdiction of the Civil Court, created by the Act. In this view of the matter, I do not find any patent error in the impugned order warranting intervention in exercise of supervisory jurisdiction by this Court.

For the foregoing reasons, the petition stands disposed of but without prejudice to right of the petitioner to avail appropriate alternative remedy in accordance with law.

NOVEMBER 1, 2017
‘D. Gulati’

(REKHA MITTAL)
JUDGE

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