

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.1291 of 2018

Date of Decision: 23.02.2018

Navneet Kumar

... Petitioner

Versus

Parveen Kumar & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Amandeep Vashisth, Advocate,
for the petitioner.

RAMENDRA JAIN, J.(Oral)

Through the instant petition under Article 227 of the Constitution of India, challenge has been laid to the order dated 28.10.2017 (Annexure P-5) of the trial Court, allowing the application of respondent No.1-plaintiff under Order 1 Rule 10 CPC.

Put pithily, respondent No.1-plaintiff filed a suit for mandatory and permanent injunction against the petitioner claiming 30' wide passage in land comprising Khasra No.10//39/2 situated at Jagadhari and to restrain him from obstructing the same by raising any sort of construction or creating hurdle.

Upon notice, the petitioner contested the suit by filing written statement. The petitioner in para no.8 of his written statement specifically pleaded that he has already transferred the lease hold rights of the property in dispute to one Bindia Garg and therefore, he had left with no right, title or interest in the suit property. Since Bindia Garg was in actual possession of the suit property as a lessee, therefore, her impleadment as a party was very much necessary for effective adjudication of the suit. In her absence, the suit was liable to be dismissed.

Consequently, respondent No.1-plaintiff filed an application under Order 1 Rule 10 CPC for impleading the said Smt. Bindia Garg as a necessary party.

After hearing both the sides the trial Court has allowed the said application vide impugned order dated 28.10.2017 (Annexure P-5).

Learned counsel for petitioner-defendant contends that the averments of respondent No.1-plaintiff in his application under Order 1 Rule 10 CPC were factually wrong. The trial Court ought to have dismissed his application in view of the fact that the petitioner though had brought to the notice of respondent No.1-plaintiff at the initial stage that he had transferred his lease hold rights to Bindia Garg, but in the application under Order 1 Rule 10 CPC, respondent No.1-plaintiff pleaded his knowledge about the same from the date of cross-examination of the petitioner.

Having given thoughtful consideration to the submissions made by both the sides, I find that the instant petition is completely frivolous and devoid of any merit for the simple reason that for non-impleadment of Smt. Bindia Garg to whom the petitioner-defendant has allegedly transferred his lease hold rights, the petitioner sought dismissal of the suit and when respondent No.1-plaintiff moved application to implead her as a party, which has been allowed vide impugned order, the petitioner is raising grouse against the same with mala fide intention. The petitioner cannot be permitted to blow hot and cold.

The impugned order is perfectly legal, inasmuch as for effective adjudication of the suit impleadment of Smt. Bindia Garg alleged subsequent lessee of the suit property is very much necessary.

In view of the discussion made above, this petition stands

dismissed with exemplary costs of ₹5,000/-, to be deposited with the Member Secretary, District Legal Services Authority, Yamuna Nagar.

A copy of this order be sent to the Member Secretary, District Legal Services Authority, Yamuna Nagar, to recover the costs.

23.02.2018
monika

(RAMENDRA JAIN)
JUDGE

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