

In the High Court of Punjab and Haryana at Chandigarh

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Civil Revision No.1572 of 2018

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Date of decision:10.5.2018

Balwinder Singh and another

.....Petitioners

v.

Gurmail Singh and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Anil Kumar Garg, Advocate for the petitioners.

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Inderjit Singh, J.

Balwinder Singh and Dalip Singh-petitioners/applicants have filed this civil revision petition against Gurmail Singh and Raghwinder Singh-respondents under Article 227 of the Constitution of India for setting aside the impugned order dated 22.9.2017 (Annexure-P.6) passed by the learned Additional District Judge, Ludhiana in Civil Appeal No.35 of 28.4.2015 titled as “Raghwinder Singh Vs. Gurmail Singh”, vide which the learned Additional District Judge, Ludhiana, has dismissed the application (Annexure-P.3) filed by the applicants/petitioners for impleading them as party in the appeal, illegally and without taking into consideration the facts and circumstances of the case. It has further been prayed that proceedings before the learned Additional District Judge, Ludhiana, be stayed, during the

pendency of the petition.

I have heard learned counsel for the petitioners and have gone through the record.

From the record, I find that an application had been filed under Order 1 Rule 10 read with Sections 141 and 151 CPC by the applicants for impleading them as co-respondents in the appeal.

The learned Additional District Judge, Ludhiana, vide order dated 22.9.2017 dismissed the application. In the application, it had been submitted that the appeal has arisen out of judgment dated 19.3.2015 passed by the learned Additional Civil Judge (Senior Division), Payal, in suit for possession through specific performance of the agreement to sell dated 27.12.2006. In fact appellant-Raghvinder Singh entered into an agreement for sale of his land measuring 22 Kanals 15 Marlas vide agreement dated 15.11.2006 and sale deed was to be executed on or before 8.11.2007. However, subsequently he requested the applicants/petitioners that he wanted to retain 3 Kanals 15 Marlas out of that land, to which the applicants/petitioners agreed. The appellant had mortgaged 11 Kanals of land in favour of Punjab Agricultural Development Bank, Branch Malaud on 26.7.2004 and the applicants/petitioners got cleared the said loan by paying the amount. The applicants/petitioners filed a civil suit for specific performance of agreement to sell which is pending in the Civil Court at Payal. However, during the pendency of said case, the applicants/petitioners came to know that present appellant is alleged to have entered into an agreement with one Gurmail Singh on 27.12.2006 with regard to

land measuring 20 Kanals 12 Marlas. On that basis, Gurmail Singh filed a civil suit for specific performance which was decreed on 19.3.2015, despite the pendency of said suit filed by the applicants. On coming to know about the passing of decree, applicants filed two applications, one under Order 1 Rule 10 CPC for impleading Gurmail Singh as party in the suit and second under Order 6 Rule 17 CPC for amendment of plaint. Both the said applications have already been allowed by the Court and the case is still pending in the Civil Court at Payal. On these grounds, an application has been filed under Order 1 Rule 10 CPC in the appeal before the first appellate Court for impleading them as respondents in the appeal.

The learned Additional District Judge, Ludhiana, after discussing the provisions under Order 1 Rule 10 CPC came to the conclusion that the applicants-present petitioners were not party in the original suit out of which the appeal has arisen. As they were not party in the suit, therefore, there is neither any pleadings on the record on their behalf nor they have led any evidence. Even if they are impleaded as respondents in the appeal, even then they have no pleadings or evidence produced before the lower Court qua their claim. These reasoning given by the learned Additional District Judge, Ludhiana, are correct as per law and no illegality has been committed while dismissing the application filed under Order 1 Rule 10 CPC. Otherwise also, when there is neither any pleading of these applicants/petitioners nor there is any evidence on record on their behalf to support their claim there will be no purpose to implead them as party in the present suit as it has been stated in the application that

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they have filed a separate suit which is still pending before the Civil Court at Payal in which Gurmail Singh etc. have already been impleaded as party. The rights of the applicants/petitioners will be determined in that civil suit or the petitioners have right to avail any other remedy available to them but they cannot be impleaded as respondents in the appeal by an application filed under Order 1 Rule 10 CPC.

Therefore, finding no merit in this civil revision petition, the same is dismissed.

May 10, 2018.

(Inderjit Singh)
Judge

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NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No