

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

CR No. 2061 of 2018
Date of Decision: 18.09.2018

Sanjay Kambo

.....Petitioner

Versus

Kamaljit Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Naveen Sharma, Advocate
for the petitioner.

Mr. Naveen Bawa, Advocate
for respondent Nos.1 to 4.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 20.01.2018, passed by the Civil Judge (Junior Division), Ludhiana (for short, the Trial Court), through which an application filed by the petitioner under Order 1 Rule 10 CPC for impleading all the co-sharers in the suit property, has been dismissed.

After perusing the record and hearing learned counsel for the parties, the essential facts which have emerged are that the petitioner filed a suit for partition of land measuring 23 Kanal 3 Marla as detailed and described in the headnote of the plaint (for short, the suit property). While the petitioner was in the midst of leading his evidence, he filed an application under Order 1 Rule 10 CPC seeking to implead all the co-sharers in the suit property as defendants. Such application was dismissed on the ground of delay, occasioning the filing of the present petition.

It is not disputed that all the co-sharers who jointly own the suit

property had not been impleaded by the petitioner at the time when the petitioner had filed the suit. A suit for partition would be quite meaningless without all the co-sharers being party-defendants. Thus, this issue goes to the root of the matter. Therefore, to make up the deficiency in his suit, while the petitioner was in the midst of leading his evidence, he filed the aforesaid application under Order 1 Rule 10 CPC.

The petitioner had filed his suit in October 2012. However, without condoning the delay on his part in approaching the Court for seeking impleadment of all the co-sharers, in view of the observations made above and subject to costs @ ₹50,000/- which shall be paid to the respondents in equal shares, after setting aside the impugned order 20.01.2018, it is directed that all the co-sharers as sought to be impleaded by the petitioner, be impleaded as defendants in the suit.

As per undertaking given by the petitioner before this Court on 28.03.2018, he shall not lead any fresh evidence.

The present petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

18.09.2018
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No