

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

**CR No.2313 of 2018
Date of decision:06.04.2018**

Taranjit Singh

... Petitioner

Vs.

Harwinderpal Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.S.Swaich, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner is aggrieved of the impugned order dated 29.01.2018, whereby, an application filed under Order 1 Rule 10 read with Section 151 CPC for impleading him as respondent in the proceedings for drawing the final decree dated 15.05.2014, has been dismissed.

Learned counsel for the petitioner submitted that the applicant/petitioner was in possession of the suit property, which had been mortgaged in his favour, vide mortgage deed dated 02.03.1989 and also delivered the vacant possession. The suit property subject matter of the aforementioned mortgage deed was never redeemed. Despite all this, there was threat to dispossess the petitioner from the suit property illegally and forcibly. The civil suit for permanent injunction was filed by the petitioner against the respondents. The respondent-plaintiff in connivance with defendant got prepared another mortgage deed dated 28.02.2005 without

delivery of possession to Taranjit Singh. In fact, possession of the suit property was of Taranjit Singh. It is in this aspect of the matter, the application for impleadment was filed which has erroneously been dismissed, therefore, the petitioner was not only necessary but proper party for adjudication of the lis.

I have heard the learned counsel for the petitioner and appraised the paper book.

Concededly, petitioner was not a party in preliminary decree dated 15.05.2014 passed by the Civil Judge (Junior Division), Fatehgarh Sahib in civil suit no.2421 of 2013 titled as Harwinderpal Sing Vs. Ranjit Singh alis Kalu. The petitioner has independent right to protect his possession, in case, he was actually mortgagee but in view of the provisions of Order 1 Rule 10 CPC, the application for impleadment for the purpose of drawing the final decree would not be maintainable, much less cannot be attracted.

In view of the aforementioned observations, finding of the trial Court is perfectly legal and justified, much less cannot be said to have been rendered without jurisdiction.

No ground is made out for interference in the impugned order.

Revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

April 06, 2018

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No