

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-2880-2018

Date of decision: 07.05.2018

Ramphal

..... Petitioner

Versus

Satyawan

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Nipun Verma, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

1. Through this revision under Article 227 of the Constitution of India, challenge has been laid to the order dated 01.03.2018 (Annexure P-5) of the Ist Appellate Court, rejecting the application of petitioner-defendant under Order I Rule 10(2) read with Section 151 CPC, for impleading a stranger i.e. Gram Panchayat, Chanot as a party.

2. In nutshell, respondent-plaintiff filed a suit for possession against the petitioner-defendant seeking possession of land measuring 48 Sq. Yards, being part of his plot measuring 3 marla (100 Sq. Yards) bearing Khasra No. 96//19/6, Gair Mumkin comprising Khwat No. 755, Kahtoni No. 942 as per Jamabandi for the year 2005-06, detailing boundaries in the plaint situated at village Chanot, Tehsil Hansi, District Hisar, which after due contest and holding trial was decreed by the trial Court vide judgment and decree dated 20.11.2015 (Annexure P-1).

3. Being aggrieved, petitioner-defendant preferred an appeal before the Ist Appellate Court, which is pending adjudication. During its

pendency, he moved an application to implead Gram Panchayat, Chanot as a necessary party alleging that since the plot in dispute was allotted by Gram Panchayat, Chanot to the respondent-plaintiff, therefore, it was a necessary party. After hearing both the sides, the Ist Appellate Court, dismissed the said application of the petitioner-defendant vide order impugned herein.

4. Learned counsel for the petitioner contends that the Ist Appellate Court has failed to appreciate that in view of condition No. 5 of allotment letter, the allottee of plot in dispute had to complete its construction within one year from the date of its allotment, but he did not do so. Therefore, the plot in dispute automatically stood resumed. Resultantly, the respondent-plaintiff remained no more owner of the same. Gram Panchayat, as owner of the plot in dispute is necessary to be impleaded as a party.

5. Having given considerable thought to the submissions made by learned counsel for the petitioner, this Court finds that the instant revision is completely devoid of any merit for the reason that learned counsel for the petitioner has not been able to prove as to whether the plot in dispute was ever resumed or any order of resumption was ever passed against the respondent-plaintiff.

6. More so, even if according to learned counsel for the petitioner, the plot in dispute stood resumed on account of non-fulfilling of condition No. 5 of the allotment letter, in that eventuality, he was required to show that any proceeding was ever initiated by the Gram Panchayat against the respondent-plaintiff for his eviction from the plot in dispute as he was handed over possession at the time of allotment in the year 1994. In the absence of any such proceedings, the Gram Panchayat, Chanot, cannot be

termed as a necessary party.

7. The respondent-plaintiff filed a suit for possession against the petitioner-defendant claiming his ownership over the plot in dispute, which he proved successfully. As a result thereof, his suit was decreed in toto vide judgment and decree Annexure P-1. Even during trial, the petitioner-defendant did not lead any evidence regarding alleged resumption of the plot. The instant revision being meritless is dismissed.

May 07, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No