

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

Civil Revision No.293 of 2018
Date of Decision:17.01.2018

Nishant SharmaPetitioner
vs.
Ashok Kumar Gulati and anotherRespondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioner.

Ramendra Jain (Oral)

Through the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has laid challenge to the order dated 02.01.2018 passed by the trial Court dismissing his application under Order 22 Rule 10 of CPC for substituting him in place of his father-defendant.

Claiming himself to be a tenant over the shop bearing MCK No.1032/9, respondent No.1 filed a suit for injunction against the father of the petitioner for restraining him from evicting respondent No.1 from the demised shop denying his title.

Prior to it, eviction petition filed by father of the petitioner was pending against respondent No.1 in which also the petitioner had moved an application for substituting him as the petitioner in place of his father which was allowed. Finally, the eviction petition was accepted ordering eviction of respondent No.1 from the demised shop.

During pendency of the suit for injunction against the father of the petitioner, the petitioner moved an application for substituting him in place of his father as defendant, but learned trial Court did not permit him to do so by rejecting his application under Order 22 Rule 10 CPC vide

impugned order dated 02.01.2018.

Learned counsel for the petitioner contends that the trial Court ought to have permitted the petitioner to be substituted in place of his father as defendant as he was not in a proper condition to pursue the litigation due to his old age. The trial Court has wrongly and illegally dismissed the application under Order 22 Rule 10 CPC of the petitioner vide impugned order. In support of his arguments, he placed reliance upon **Bhupinder Singh v. Pritam Singh, 1993(3) R.R.R. 352.**

After giving my thoughtful consideration to the submissions made by learned counsel for the petitioner, the instant revision petition deserves acceptance for the simple reason that no prejudice is going to be caused to respondent No.1- plaintiff. Even cause of action would also not change, in case, the petitioner is substituted in place of his father as defendant. The disposal of the suit was also not going to be delayed, in case, the petitioner ought to have been permitted to be substituted as defendant. The impugned order of the trial Court is whimsical being not based on any reasoning. It has hushed up the issue without seriously caring to the rights of the parties.

In view of the discussion above, the instant revision petition is allowed. Resultantly, the impugned order dated 02.01.2018 is set aside. The trial Court is directed to substitute the petitioner in place of his father as defendant in the suit for injunction filed by respondent No.1- plaintiff and to proceed further in accordance with law.

The instant revision is disposed of without issuing notice to the respondent- defendant with a view to impart justice expeditiously to the parties and to save the huge expenses which may be incurred by him and

also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondent may move this Court for recalling this order withing six weeks from today.

January 17, 2018
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(RAMENDRA JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No