

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

213

CR No.3393 of 2017
Date of Decision:08.01.2018

Vipin

...Petitioner

Versus

Geeta Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rao Ajender Singh, Advocate
for the petitioner.

Mr. Sanjay Mittal, Advocate
for respondent No.1.

ANIL KSHETARPAL, J.(Oral)

Petitioner had filed an application under Order 1 Rule 10 CPC for being added as a defendant in Civil Suit No.2 dated 19.12.2013. Plaintiff-Geeta Devi claiming to be a mortgagee, had filed a suit for declaration that father of the defendants had mortgage the suit property in favour of the plaintiff on 26.08.2004 and as per the terms of the mortgage deed, plaintiff has become owner.

Applicant-petitioner filed an application in a pending suit claiming that he is owner of the adjoining property i.e. House No.316/1 and some part of the property of House No.316/1 has been shown to be part of House No.315.

Learned trial Court dismissed the application on the ground that the dispute to be adjudicated upon in the suit is entirely different and, therefore, the applicant/petitioner cannot be implead as a party.

I have heard learned counsel for the parties at length and with

that the plaintiff had filed a suit for declaration with regard to mortgage deed dated 26.08.2004. The suit was filed against the legal heirs of the original mortgagor. The only issue which requires determination in the suit is whether as per the terms of the mortgage deed, plaintiff has become owner or not. The claim made by the applicant-petitioner is totally different to the dispute involved in the suit. Applicant-petitioner is wanting to become party only to stake a claim on some part of the property, which is claim to be part of House No.316/1.

In the considered opinion of this Court, the applicant-petitioner wants to bring in a dispute, which is not within the scope of the original suit.

In view thereof, there is no scope for interference. However, the petitioner would be at liberty to file an independent suit claiming his rights.

Revision petition is dismissed.

08.01.2018
sheetal

(ANIL KSHETARPAL)
JUDGE

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