

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

**CR No.339 of 2018**

**Date of Decision: 17.07.2018**

**Pavitra Devi  
Vs**

**.....Petitioner**

**Seema Yadav and others**

**.....Respondents**

**CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. P.K. Jain, Advocate  
for the petitioner.

Mr. Amit Jain, Advocate  
for respondent No.1.

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**RAJ MOHAN SINGH, J.**

[1]. Petitioner has assailed the order dated 14.11.2017 passed by Additional Civil Judge (Senior Division), Gurugram, vide which application under Order 1 Rule 10 read with Section 151 CPC filed by the petitioner was dismissed.

[2]. Plaintiff/respondent No.1 filed a suit for permanent and mandatory injunction against Suresh Yadav and Smt. Kavita Yadav. Plaintiff claimed herself to be owner in possession of residential house on the basis of conveyance deed dated 22.05.1997 executed in her favour on the basis of re-allotment after transfer permission granted on the application filed by the

petitioner Smt. Pavitra Devi. Plaintiff claimed that defendants Suresh Kumar Yadav and his wife Smt. Kavita Yadav were licencees. Vacant possession was sought to be claimed from them. Applicant/petitioner claimed that she was owner of the residential house and her daughters Seema (plaintiff) and Kavita (defendant No.2) illegally and unauthorisedly got the plot transferred in favour of the plaintiff Seema. Applicant/petitioner has already filed a separate suit titled Pavitra Devi Vs. Seema Yadav and others, challenging the said transfer being fraudulent and due to fiduciary relationship of the petitioner in which undue advantage has been taken. The present suit was claimed to be a collusive suit. She claimed herself to be necessary and proper party for just decision of the suit.

[3]. The application was contested by the plaintiff/respondent No.1 on the ground that no relief was claimed against the applicant/petitioner and the applicant/petitioner was not a necessary party as the property was duly transferred in the name of the plaintiff vide conveyance deed dated 22.05.1997. The conveyance deed was executed in favour of the plaintiff on the basis of re-allotment after transfer permission given by the applicant/petitioner herself. Since the applicant/petitioner has already filed an independent suit, challenging the said conveyance deed in favour of the plaintiff,

therefore, there is no need to implead her in the present suit as no relief has been claimed against the applicant/petitioner.

[4]. Relief of permanent and mandatory injunction is based on individual grievance against a particular person. Applicant/petitioner cannot force the plaintiff to seek restraint against her also, particularly when the plaintiff was not aggrieved by any act of the applicant/petitioner. In the present suit for permanent and mandatory injunction, the question of ownership of the plaintiff would be an ancillary relief, irrespective of the fact that the defendants have denied the ownership of the plaintiff and claimed the property to be owned by the applicant/petitioner. The suit filed by the applicant/petitioner is for declaration by way of challenging the conveyance deed in favour of the plaintiff. In the instant suit for permanent and mandatory injunction, the title is not to be decided being ancillary in nature. The applicant/petitioner cannot force the plaintiff being *dominus litis* to contest with someone against her wishes. Seeking injunction against the defendants is somewhat personal grievance of the plaintiff, which cannot be generalized and passed over to other person like the applicant/petitioner.

[5]. In the light of aforesaid facts, I am of the view that no indulgence can be granted to the petitioner for becoming party in the present suit as the applicant/petitioner is neither

necessary nor proper party in the present suit.

[6]. Dismissed.

July 17, 2018.  
*Prince*

(RAJ MOHAN SINGH)  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |