

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4953 of 2016 (O&M)
Date of Order: 04.05.2018

Durga Parsad

..Petitioner

Versus

Jai Narain and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S.Yadav, Advocate,
for the petitioner.

Mr. Sachin Mittal, Advocate,
for respondents no.1 and 2.

Mr. Akhilesh Vyas, Advocate, for
Mr. Prateek Mahajan, Advocate,
for respondent no.3-Municipal Corporation, Gurugram.

ANIL KSHETARPAL, J(Oral)

Plaintiff-petitioner is in the revision petition against the orders passed by the courts dated 21.04.2016, dismissing the application for impleading Chander Bhan Singh as a party-defendant and consequent amendments in the plaint.

Learned counsel for the petitioner has submitted that the applications under Order 1 Rule 10 and Order 6 Rule 17 of the Code of Civil Procedure were filed after a Local Commissioner appointed by the court had reported that one Chander Bhan Singh has also encroached upon certain land. He submitted that cause of action to file the applications arose only after the report of the Local Commissioner was submitted.

This court has considered the submissions.

No doubt, there is a report of Local Commissioner dated 02.12.2014, which finds that Chander Bhan Singh has encroached upon some land. However, a careful reading of the plaint proves that no foundation has been laid in this regard in the present suit. The present suit is only for permanent injunction and as per the current status, plaintiff has already concluded his evidence and the case is now fixed for defendant's evidence. It is further noticed that the plaintiff-petitioner can file a fresh suit against Chander Bhan Singh. Impleading of Chander Bhan Singh in the present suit would result in de-novo trial. The suit is pending since 2012.

In view of the aforesaid, the revision petition is disposed of with liberty to the petitioner to file a fresh suit against Chander Bhan Singh.

May 04, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No