

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

**CR-4972-2016 (O&M)
Date of decision : 19.01.2018**

**BABA MAHESH MUNI GOWSHALA TRUST
AND ORS** **.....PETITIONERS.**

VERSUS

MADHUSUDAN @ KALOO AND ORS **..... RESPONDENTS.**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Randhir Jain, Advocate for the petitioners.

Mr. Ramandeep Singh, Advocate for respondents No. 1 and 2.

Mr. Sandeep K. Sharma, Advocate for respondent No. 4.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Heard.

Impugned in the present revision petition is the order dated 25.4.2016, passed by learned Civil Judge, (Junior Division), Sirsa (Annexure P-8), vide which an application under Order 1 Rule 10 CPC read with Section 151 CPC filed by one Baba Malkiat Dass was allowed and he was made a party to the suit.

It comes out that plaintiffs-petitioners have filed a civil suit for declaration; permanent and mandatory injunction. In this case, plaintiffs-petitioners claimed the property left behind by one Gazraj Singh in favour of Baba Mahesh Muni Gowshala Ding, Tehsil and District Sirsa.

Learned counsel for the petitioners has argued that under Section 35 of the Specific Relief Act, 1963, a decree passed in this case will be binding upon the parties, therefore, the said Baba Malkiat Dass (chela Baba Mahesh Muni) cannot be made party against the wishes of the plaintiffs-petitioners. The presence of Baba Malkiat Dass is also not necessary for disposal of the case.

On the other hand, learned counsel for respondents has argued that under Order 1 Rule 10 (2) CPC, if the Court finds that the presence of a person is necessary, he can be added as party. The provisions under Order 1 Rule 10 (2) CPC reads as under: -

“(2) Court may strike out or add parties—The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.”

The above-said provisions show that these are very wide in nature. The mere fact that a judgment will not be binding on a person is itself no ground to dismiss the application. If the Court feels that the presence of the said person is necessary to enable it to effectually and completely adjudicate upon and settle all the questions involved in the suit, said party can be added in the suit.

A perusal of the impugned order dated 25.4.2016 (Annexure P-8), shows that Gajraj Singh owned disputed property. He expired on 16.1.2015, executing a registered Will dated 5.4.2011 in favour of Baba Mahesh Muni Gowshala Ding. Gajraj Singh and Baba Malkiat Singh were chela(s) of Baba Mahesh Muni. Learned trial Court has critically examined all the facts. It also examined that in the proceedings before the DRO, Baba Malkiat Dass was made party. It also noticed that the Will is in favour of Baba Mahesh Muni Gowshala Ding.

Learned trial Court also observed that there are even 87 registered Gowshala in Sirsa District and that there is no Gowshala in the name of Baba Mahesh Muni Gowshala Ding. Certain observations were also made regarding registration of the FIR against the present plaintiffs and that there is an alternation in some documents which need not be discussed in detail. It was observed that applicant want to bring all those things on file, therefore, Court felt that applicant is a necessary party in the present suit as the suit cannot be decided unless true facts are brought to the notice of the Court.

In the light of the view taken by the trial Court, I am of the view that since the trial Court feels that presence of Baba Malkiat Dass is necessary for the Court to enable it to effectually and completely adjudicate upon and settle the issues involved in the suit, therefore, even if he is not affected by the judgment and decree, he could be added as party under Clause 1 Rule 10 (2) CPC.

Consequently, I do not find any illegality or irregularity in the order passed by leaned trial Court.

Dismissed.

(KULDIP SINGH)
JUDGE

19.01.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No