

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

Civil Revision No.5259 of 2015

Date of Decision:-14.02.2018

Ajay Pal Singh

...Petitioner

Versus

Haryana Wakf Board, Ambala Cantt. And another

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. B.S. Bedi, Advocate
for respondent No.1.

Ms. Janya Sirohi, Advocate for
Mr. Akshay Jindal, Advocate
for respondent No.2.

AMIT RAWAL J.(Oral)

The petitioner-applicant Ajay Pal Singh is aggrieved of impugned order dated 15.7.2015 (Annexure P-5) whereby the application under Order 1 Rule 10 of CPC for impleadment as defendant in a suit filed by respondent No.1-plaintiff Wakf Board seeking declaration to be owner in possession of the suit property including the construction thereon comprising of Khasra No.1054 min, situated at Assandh Road, Panipat and

shown as ABCD in the site plan, was dismissed. The suit aforementioned was filed against Avtar Singh on the premise that the land belongs to the Wakf Board being a Muslim religions body and the defendant denied the title of the same as such cause of action arose to institute the suit by invoking the jurisdiction of the Tribunal.

Earlier, defendant Avtar Singh had filed a civil suit which was decreed by the trial Court but the appeal preferred before the lower Appellate Court was allowed. Against the judgment and decree of the lower Appellate Court, the defendant-Avtar Singh filed Regular Second Appeal No.1211 of 2005 before this Court but the same, was also dismissed.

Mr. Sanjiv Gupta, Advocate learned counsel for petitioner submitted that in the aforementioned suit defendant-Avtar Singh filed the written statement (Annexure P-3) wherein paragraph 10 and 11 stated that the suit was bad for misjoinder of the parties in fact it was the applicant-petitioner Ajay Pal Singh who was/is in exclusive possession of the aforementioned property and in his absence the suit could not proceed being necessary and proper party. The trial Court did not consider the aforementioned fact and strictly applied the principle of dominus litus. Any party who is connected with the suit property can also seek impleadment.

Per contra Mr. B.S. Bedi, Advocate learned counsel appearing for respondent No.1-Wakf Board submitted that the petitioner-applicant has an independent cause of action, but cannot be permitted to be impleaded as defendant, as no relief has been sought against the applicant-petitioner and the application was filed with malafide intention to delay the adjudication

of the suit as the defendant has already lost the claim seeking declaration qua ownership and urged this Court for dismissal of the revision petition.

Ms. Janya Sirohi, Advocate representing Mr. Akshay Jindal, Advocate appearing for respondent No.2 submitted that she does not have any objection qua impleadment of petitioner as defendant as it would help the Court for adjudication of the case.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the contentions of learned counsel for the petitioner as the nature of the suit as indicated above is for declaration and possession in respect of the property alleged to be owned by respondent No.1-plaintiff i.e. Wakf Board. If it all the petitioner-applicant wanted to be impleaded as defendant, he has some independent cause of action for redressal of grievance, if any, but not in the mode and manner as indicated above.

Mr. Sanjiv Gupta, Advocate learned counsel for the petitioner during the course of hearing has expressed apprehension that all the matters involving the title of the Wakf Board under challenge, have been referred to Tribunal at Rohtak whereas in cases petitioner intends to file suit would be tried at Panipat and possibility of different findings cannot be ruled out.

I am of the view the apprehension expressed can be redressed by moving an appropriate application before the competent Court but not by way of impleadment. Needless to say any finding rendered by this Court shall not be considered as an expression of opinion or shall not come in the way of the rights of the applicant in case separate suit is instituted.

Resultantly, while upholding the order impugned herein, the revision petition stands disposed of.

February 14, 2018
Vijay Asija

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No