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

**Civil Revision No.6343 of 2016 (O&M)
Date of Decision: 24.09.2018**

Sanjeev Tyagi

.....Petitioner

Vs

Vishvender Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sanjiv Ghai, Advocate
for the petitioner.

None for respondent No.1.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 11.08.2016 passed by the Civil Judge (Jr. Divn.) Faridabad, whereby the application filed by the petitioner under Order 1 Rule 10 CPC for becoming party-defendant in the suit was dismissed.

[2]. Brief facts are that the plaintiff filed a suit for permanent injunction against defendants No.1 to 7 on the basis of title as per sale deed dated 27.01.2012 in respect of 462.33 sq. yards. It was pleaded in the suit that the defendants were threatening to encroach upon the suit property by way of installing *bitauras* and were trying to dispossess the plaintiff from the suit property

forcibly.

[3]. Defendants in the written statement specifically pleaded that 260 sq. yards of the property was alienated by the heirs of Wazir, Braham Raj, Krishan, Mukesh and heirs of Raghbir, Shri Niwas, Naresh and Janesh in favour of Sanjeev Kumar/petitioner for a consideration of Rs.8 lakhs. Full payment agreement was executed in favour of Sanjeev Kumar and thereafter, Sanjeev Kumar has done fencing of 260 sq. yards and using the same as Gait for his personal use besides installing *bitoras*, *bongas* and for tethering his cattles. Defendants further asserted that heirs of Ram Chander, Smt. Chuyari, Smt. Kailashwati, Vidyawati have no right in the aforesaid 260 sq. yards Gait which was earlier belonging to Raghbir and Wazir sons of Hukami and now exclusively belongs to Sanjeev Kumar.

[4]. The application filed by the petitioner under Order 1 Rule 10 CPC has been dismissed primarily on the ground that relief of permanent injunction is a right in personnem. Plaintiff does not feel any apprehension at the hands of petitioner, therefore, he cannot be impleaded in the suit. Petitioner can avail his independent remedy in accordance with law.

[5]. Notice of motion was issued on 23.09.2016. Service is complete *qua* respondent No.1. The case has been passed over

on two occasions, but there is no representation on behalf of respondent No.1.

[6]. Having heard the submissions made by learned counsel for the petitioner, I am of the view that as per stand taken by the defendants, they have pleaded no interest in the property in question. Out of total 460 sq. yards of land, area measuring 260 sq. yards has come to the fold of petitioner on the basis of agreement to sell dated 13.12.2011. The entire payment was made in favour of the vendor namely Shri Krishan, Mukesh, son of Sh. Munni Lal, Braham Raj son of Wazir, Shri Niwas, Naresh, Janesh, Suresh sons of Raghvir, Rajvir son of Sh. Ram Niwas, residents of Village Dabua, Tehsil and District Faridabad, Haryana. The suit filed by the plaintiff was based on sale deed dated 27.01.2012. The perusal of the plaint would show that name of the vendor is conspicuously missing.

[7]. At this stage, no final opinion on merits of the case can be made, lest it may prejudice the claim of any party to the litigation. Even though the relief of injunction is personal in nature, but keeping in view the stand taken by the defendants, they have no claim in the property in question, rather projected the name of the petitioner with whom possession of 260 sq. yards of the property stood delivered by his vendors and remaining 200 sq. yards belonged to one Parveen Tyagi. In

order to curtail multiplicity of litigation, it would be just and appropriate to allow impleadment of the petitioner as party defendant in the suit.

[8]. In view of above, this revision petition is allowed. The impugned order dated 11.08.2016 passed by the Civil Judge (Jr. Divn.) Faridabad is hereby set aside. Petitioner is allowed to be impleaded as party defendant in the suit. Normal consequences to follow.

September 24, 2018

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No