

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6857 of 2018

Date of Decision: 08.10.2018

Dharamvir Malik

.....Petitioner

Vs.

|Hari Ram Malik and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. V.K. Jindal, Senior Advocate, with
Ms. Janya Sirohi, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order of the learned trial Court [Civil Judge (Junior Division), Panipat], dated 21.09.2018, by which the application filed by the petitioner-plaintiff before that Court, seeking to withdraw the suit with liberty to file a fresh one after impleading his brother Haripal and one legal heir, Murti Devi, has been dismissed.

A perusal of the impugned order shows that the application was filed by the petitioner-plaintiff at the fag end of proceedings in the trial, at the stage when it was fixed for final arguments before that Court.

It has also been noticed specifically by the learned trial Court that as a matter of fact, respondents-defendants no. 1 and 2 had taken a preliminary objection in their written statement that the suit was bad for non-joinder and mis-joinder of necessary parties.

Despite that, the application seeking to withdraw the suit and filing a fresh one on the same cause of action impleading the aforesaid two persons, was filed only at the fag end of the trial.

Obviously, in the aforesaid circumstances, the said application was to be rejected and has been correctly so rejected by that Court.

Hence, finding no merit in this petition, it is dismissed in *limine*.

Mr. Jindal, learned Senior Counsel appearing for the petitioner, has at this stage stated that the petitioner-plaintiff would be filing an application under Order 1 Rule 10, CPC, before the learned trial Court to implead the aforesaid two persons.

No comment whatsoever is made by this Court on that contention, because if any such application is filed, it would naturally be dealt with by the trial Court wholly on its own merits.

October 08, 2018
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.