

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 7270-2016 (O&M)
Date of decision: 01.02.2018

Gurkirpal Singh

.....Petitioner

versus

Shamsher Singh

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Petitioner in person
Mr.Abhinav Gupta, Advocate for the respondent no.1
Mr.Ashok Kumar Bazaz, Advocate for the respondent no.2

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 19.9.2016, passed by learned Civil Judge (Senior Division), Ludhianna, vide which, application filed by the plaintiff under Order 1 Rule 10 CPC for impleading Kamaljit Kaur as necessary party has been dismissed.

I have heard petitioner who is present in person and counsel for the respondents and have also carefully gone through the file and written submissions.

The short facts of the case are that the plaintiff has filed a suit for permanent injunction against Shamsher Singh and Municipal Corporation, Ludhiana for restraining them from executing any work other than the sanctioned building plan from Municipal Corporation and further from raising any side or back wall at the site or covering the open space of 14 ft., which according to him is violation of building bylaws. Further

mandatory injunction was sought against defendant no.1 for not obstructing the direct sun light or air circulation or other type of encroachment on the property of the plaintiff.

It comes out that the suit was filed on 18.5.2009. It also comes out from the impugned order that the case was fixed for final arguments when the present application was filed. The trial Court has taken a view that Kamaljit Kaur is wife of said Shamsher Singh and that defendant had taken a stand in the written statement that he is not owner of the house in dispute and that the property was in fact purchased by his wife vide registered sale deed dated 14.1.1993. Sale deed was also produced on file. During evidence, defendant filed his affidavit and was cross-examined on 9.12.2010 and 20.12.2010. Plaintiff has stated in the application that he came to know about the property being in the name of Kamaljit Kaur only on 4.4.2015, which was discarded by the trial Court.

Present petitioner also made written submissions. I have considered all those written submissions. It is a suit for permanent injunction and mandatory injunction, which is personal in nature. Plaintiff has sought injunction against Shamsher Singh husband of the Kamaljit Kaur. No injunction was sought against Kamaljit Kaur. Defendant had admitted at the initial stage that in fact Kamaljit Kaur is owner of the property. Assuming that Shamsher Singh is doing everything on behalf of his wife, plaintiff sought permanent injunction and mandatory injunction against him and not against Kamaljit Kaur. Now, the case was at the fag end, when the present application was filed. Therefore, the trial Court rightly refused to allow such application so as to start de-novo trial.

It being so, there is no illegality or infirmity in the impugned

order.

Resultantly, the present revision petition stands dismissed.

However, it is always open to the plaintiff to file a separate suit against Kamaljit Kaur, if so advised.

01.02.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No