

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.916 of 2018

Date of Decision.12.02.2018

Rambir

.....Petitioner

Vs

Suresh Kumar and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Aditya Singh Yadav, Advocate
for the petitioner.

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AMIT RAWAL J.(ORAL)

The petitioner is aggrieved of the impugned order whereby the application moved under Order 1 Rule 10 read with Section 151 CPC for impleading as respondent in the appeal filed by the defendants, has been declined.

Learned counsel appearing on behalf of the petitioner submitted that the plaintiff instituted a suit for claiming possession of Khasra No.11/2 whereas the applicant is the co-owner in Khasra Nos.11/1 of which defendant No.1 also co-owner. The suit aforementioned was erroneously decreed for possession vide judgment and decree dated 09.10.2015 and the appeal preferred against the same is pending adjudication wherein the application aforementioned moved on 31.10.2017 has erroneously been dismissed.

Keeping in view the aforementioned, I am of the view that the petitioner did not avail the appropriate remedy as he sought to be impleaded as respondent in the appeal pending adjudication. It is settled law that even a third party can also file an appeal in view of the provisions of Order 41

Faced with this situation, learned counsel for the petitioner submits that he may be allowed to withdraw the revision petition and the application moved under Order 1 Rule 10 CPC to move a fresh application to be impleaded as co-appellant instead of respondent.

I am of the view that the aforementioned prayer is genuine and in accordance with law and is hereby accepted. The revision petition is dismissed as withdrawn with liberty as aforesaid.

(AMIT RAWAL)
JUDGE

February 12, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No