

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

**CR No.128 of 2019 (O&M)
Date of Decision:-10.12.2019**

Satish Kumar Dubey	Versus	...Petitioner
HUDA and others		... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr. Arun Walia, Advocate with
Mr. Nirmal Sharma, Advocate
for the petitioner.

Mr. Deepak Balyan, Advocate
for respondents No.1 and 2.

RAJ MOHAN SINGH, J. (Oral)

[1] Petitioner has assailed the order dated 01.11.2018 passed by Civil Judge (Sr. Divn.), Gurugram, vide which the application filed by respondent No.5 under Order 1 Rule 10 CPC was allowed.

[2] Earlier Civil Revision No. 11643 of 2018 was got dismissed as withdrawn with liberty to file fresh revision petition with better particulars. Plaintiff filed a suit for permanent injunction against original defendants No.1 to 4. No relief has been claimed against the added defendant No.5. Even though the property was allotted to defendant No.5 vide approval dated

17.04.2018 and possession was also delivered to the applicant, but respondent No.5 cannot impose itself in a suit for permanent injunction to force the plaintiff to contest against it particularly, when the plaintiff does not seek any relief qua respondent No.5. Plaintiff being *dominus litus* cannot be compelled to fight against a person with whom he does not wish to contest. Right of permanent injunction is a right in personam. The right if any available to respondent No.5 in respect of any cause of action vis-a-vis respondent No.1 to 4 can be espoused by respondent No.5 in some independent litigation.

[3] Notice of motion was issued on 15.01.2019 and the Trial Court was directed to adjourn the proceedings beyond the date fixed.

[4] Service qua respondent No.1 is complete but there is no representation on its behalf.

[5] For the reasons recorded hereinabove, I deem it appropriate to set aside the impugned order dated 01.11.2018 passed by Civil Judge (Sr. Divn.), Gurugram and the revision petition is accordingly allowed. Normal consequences to follow.

10.12.2019

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**(Raj Mohan Singh)
Judge**

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No