

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

Sr. No.203

**CR No.1766 of 2018
Date of decision: 27.08.2019**

Kamlesh Gupta

....Petitioner

versus

Naval Kishore @ Nawal Kishore and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Aakash Singla, Advocate
for the petitioner.

Mr. Sumit Sangwan, Advocate
for respondent No.1.

Ms. Gitanjali Chhabra, Advocate for
Mr. Raman B. Garg, Advocate
for respondent No.2.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 06.03.2018 passed by the Civil Judge (Senior Division), Charkhi Dadri (for short – the Trial Court) dismissing an application filed by the petitioner under Order 1 Rule 10 CPC seeking therein to be impleaded in a civil suit preferred by respondent No.1 against respondent No.2.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No.1 filed a suit through which he sought to restrain respondent No.2-Municipal Council, Charkhi Dadri (for short – the Council) from interfering in his peaceful

possession of his house as also from demolishing the same forcibly and illegally. The aforesaid house was detailed and described by respondent No.1 in the head note of the plaint (for short – the suit property). Respondent No.1 further challenged the notice dated 30.05.2013 received by him from respondent No.2-Council.

On being put to notice, respondent No.2-Council appeared before the Trial Court and filed its written statement disputing therein the claim made by respondent No.1 as also justifying the notice(s) issued by them to respondent No.1. On the dispute between the parties, the Trial Court framed issues and thereafter, respondent No.1/plaintiff led his entire evidence. While respondent No.2-Council was in the midst of leading its evidence, an application was preferred by the petitioner under Order 1 Rule 10 CPC seeking therein her impleadment in respondent No.1's suit inter-alia on the ground that respondent No.2's action which had been challenged by respondent No.1 in his suit was at the instance of the petitioner and that the decision in respondent No.1 suit would also effect the petitioner's property. The Trial Court dismissed the petitioner's application through the order under challenge in the present proceedings.

Learned counsel for the parties have heard.

Respondent No.1's suit in which the petitioner seeks her impleadment has been filed primarily to challenge therein notice dated 30.05.2013 issued to respondent No.1 by respondent No.2-Council. Such notice was produced in Court and a perusal thereof reveals that through the same respondent No.2-Council has required respondent No.1 to demolish certain portions of the suit property as the same were in violation of the bye-laws of respondent No.2-Council and were not sanctioned.

The issue as to whether the construction made by respondent No.1 is as per the bye-laws of respondent No.2-Council and/or whether such construction was sanctioned by respondent No.2-Council can effectively be decided by the Court in the petitioner's absence.

Even otherwise, respondent No.1 is *dominus litus* and it is for him to choose the party or parties against whom he wishes to litigate. In case he does not implead the necessary parties it is he who would and should suffer.

Still further, this Court is informed that the petitioner has already filed a separate suit against respondent No.1 as also his father for permanent and mandatory injunction with regard to the part of his property which according to him was being encroached upon by respondent No.1 and that such suit has been dismissed by the Trial Court against which the petitioner has filed an appeal which is pending.

In view of the above, the impugned order does not warrant any interference.

Dismissed.

(DEEPAK SIBAL)
JUDGE

August 27, 2019
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No