

In the High Court for the States of Punjab and Haryana at Chandigarh

C.R. No. 2141 of 2018
Date of Decision: March 13, 2019

Zile Singh

... Petitioner

Versus

Bijender Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ajay Ghangas, Advocate,
for the petitioner.

Mr. B.S. Bairagi, Advocate,
for respondent no.1.

Mr. Chander Shekhar Singhal, Advocate,
for respondents no. 3 and 4.

Amit Rawal, J. (Oral)

Present revision petition is directed against the impugned order dated 06.03.2018 (Annexure P/4) whereby application of the applicants-petitioner under Order 1 Rule 10 CPC for seeking impleadment as defendant nos.2 to 4 has been dismissed.

Mr. Ajay Ghangas, learned counsel, appearing on behalf of the petitioner, submitted that respondent no.1-plaintiff instituted the suit seeking injunction against Gram Panchayat from interfering in the peaceful and lawful possession being co-sharer as well as other co-sharers of Pana Ruhel consisting of Thola Bhogi 1/4th share, Thola Thutha 1/4th share and Thola Rama 1/2 share, over a land measuring 10 kanals 13 marlas. The applicants are none-else, but are co-sharers in the suit land and in order to

protect the interest of coparceners, it is necessary to implead them as party as it would help the court in adjudication of the suit, therefore, impugned order is not sustainable and is liable to be set aside.

Mr. B.S. Bairagi, learned counsel, appearing on behalf of respondent no.1, submitted that principle of *dominus litis* would apply. If at all, there is any grievance, they are at liberty to file independent suit and urges for dismissal of the revision petition.

I have heard learned counsel for the parties and perused the paper-book.

It would be appropriate to reproduce the prayer clause in the suit which reads as under:-

“11. That the plaintiff therefore prays that a decree for permanent injunction restraining the defendant (Gram Panchayat) from interfering in the peaceful & lawful possession of the plaintiff as well as other co-sharers of Pana Ruhel over suit land measuring 10 kanal-13 Marla comprising in Khewat No. 416 min, situated in Village Beholi, Tehsil Samalkha, Distt. Panipat vide jamabandi for the year 2014-2015 and fully described in the title of the plaint above, by way of encroachment or in any other illegal manner whatsoever be passed in favour of the plaintiff and other co-sharers of Pana Ruhel and against the defendant. The cost of the suit and any other relief deemed proper may also be granted.”

The contents of the application reveals that the applicant-petitioner is also alleging to be co-sharer. There is some force in the arguments of Mr. Ajay Ghangas, counsel for the petitioner regarding ruling out of element of collusion between the Gram Panchayat and plaintiff. Be that as it may, it is the case where the interest of Pana Ruhel (Thola) is

being protected. The suit for injunction in the absence of other co-sharers apparently would not be maintainable, rather it would be in the interest of justice not to oppose the application. Suit is at the initial stage, it would help the court for adjudication of the lis. As an upshot of my finding, the order under challenge is not sustainable as suffers from illegality and infirmity.

In view of above, Impugned order is set aside. Application of the applicants-petitioner under Order 1 Rule 10 CPC for impleading them as defendants no.2 to 4 is allowed. Resultantly, present revision petition is allowed.

March 13, 2019
vkd

(Amit Rawal)
Judge

Whether speaking / reasoned : Yes

Whether reportable : No