

In the High Court of Punjab and Haryana at Chandigarh

248

CR No. 3000 of 2018 (O&M)

Date of decision:26.2.2019

JAGDISH CHANDER

.....petitioner

Versus

SUBHASH AND ANR

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Saurabh Sharma, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J.(oral)

This revision petition has been filed by the petitioner challenging the order dated 13.3.2018 passed by the Civil Judge (Jr.Divn.) Karnal, vide which the application filed by the petitioner under Order 1 Rule 10 CPC for impleading him as party defendant in the suit was dismissed.

Notice of motion was issued on 9.5.2018 by passing the following order:-

“Learned counsel for the petitioner submits that the findings recorded by the Civil Judge (JD), Karnal, in para No. 7 of the order, are persi illegal. The path left out in between the holdings of the petitioner and respondent No. 1, in fact, falls in Khasra No. 394(0-18), though the same was carved

out from rectangle/Khasra No. 7/1/2(3-2), 14 (7-0), 14/1(1-19). Khasra No. 394(0-18) was omitted to be shown qua the path in the Aks Sizra.

Notice of motion for 28.05.2018.

Let the specific affidavit be filed by the petitioner in the context that even though the path bearing Khasra No. 394 (0-18) was left during the consolidation, but the same was never given number in Aks Sizra and the path which is shown in the Aks Sizra is in fact Khasra No. 394(0-18)."

The said order was partially corrected in terms of word 'persi' vide order dated 31.5.2018.

As per office report, respondents No.1 and 2 have been duly served, but they opted not to be represented before this Court.

In view of service report, I proceed to hear learned counsel for the petitioner on merits.

Learned counsel for the petitioner submitted that factual findings recorded by the trial Court in para No.7 of the impugned order are persi illegal inasmuch as that the *rasta* was left out in between the land of the petitioner and respondent No.1. The left out area was earmarked as khasra No.394 (0-18). The said *rasta* was carved out from rectangle/khasra No. 7/1/2 (3-2), 14 (7-0), 14/1(1-19). In the Aks Sizra attached by

the petitioner, necessary incorporation in terms of showing khasra No.394 could not be made.

Today, learned counsel for the petitioner has brought on record original copy of Aks Sizra to show that the left out area in between the aforesaid khasra numbers is in fact khasra No.394, which was duly left as *rasta* in the consolidation. Necessary report prepared by girdawar halqa patwari on 14.10.2015 has also been relied by learned counsel for the petitioner. Petitioner has also filed a specific affidavit in the aforesaid context to show that even though the path bearing khasra number 394 (0-18) was left during consolidation, but the same was never given number in Aks Sizra as per original Aks Sizra attached with this revision petition. Now the necessary correction has already been done in the fresh copy of Aks Sizra, thereby showing the left out area to be khasra number 394 (0-18).

There is no opposition to the aforesaid facts by the respondents. Vide the impugned order, the petitioner has only asked for his impleadment as party defendant before the trial Court in order to espouse his grievance in accordance with law. The impleadment of the petitioner in no way will cause any prejudice to the plaintiff-respondent . At the most the suit will be decided after ascertaining the factual position on record.

For the reasons recorded herein above, I deem it

appropriate to accept this revision petition.

Consequently, this revision petition is allowed. The impugned order is set aside. Normal consequences to follow.

February 26, 2019
anita

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking

Yes/No

Whether reportable

Yes/No