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

**Civil Revision No.4926 of 2018
Date of Decision: 27.05.2019**

Ranbir Singh

.....Petitioner

Vs

Municipal Corporation Rohtak and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Parveen Kaushik, Advocate
for the petitioner.

Mr. Rajesh Goel, Advocate for
Mr. Pritam Singh, Advocate
for respondent No.1.

Mr. Suryakant Gautam, Advocate
for respondents No.2 to 4.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 25.05.2018 passed by the Addl. Civil Judge (Sr. Divn.) Rohtak, whereby the application under Order 1 Rule 10 CPC for impleadment of respondents No.2 to 4 was allowed.

[2]. Plaintiff/petitioner filed a suit for permanent injunction with consequential relief of mandatory injunction against the Municipal Corporation, Rohtak. Plaintiff specifically pleaded in para No.4 of the plaint that he came to know from reliable

sources that defendant in collusion with some inhabitants of Kamal Colony, Rohtak were adamant to dispossess the plaintiff from the suit property by converting the plot of the plaintiff in common passage.

[3]. In reply to the aforesaid para, defendant/Municipal Corporation denied the same, rather pleaded that the site in dispute is a street/common passage. The site plan was sanctioned in the year 2004, wherein it has been shown as a street sanctioned in the year 2004 and the street has been closed by way of encroachment made by the plaintiff.

[4]. The site plan sanctioned and produced by defendant-Municipal Corporation shows that the street leads to Delhi by-pass. Houses of defendants No.2 to 4 are situated on both sides of the aforesaid street. The plot of the plaintiff falls at the dead end of the street where by way of construction, the passage has been blocked to its entirety and there is no connectivity of the street with the Delhi by-pass.

[5]. Plaintiff has filed a site plan in respect of the aforesaid street showing the same to be private road. The said site plan was prepared before coming into force of Municipal Corporation. Even in the site plan produced by the plaintiff/petitioner there is a triangular shape portion adjoining to by-pass road, wherein the street has been blocked and there is no connectivity with by-

pass road.

[6]. Once the plaintiff himself relied upon the site plan prepared prior to existence of Municipal Corporation, Rohtak, then it is not understandable as to how the suit was filed only against Municipal Corporation and not against the co-sharers of the street. The blockade done by the plaintiff would *prima facie* render the use of the street to be meaningless thereby causing great hardship to the other co-users of the street whose plots are adjoining on both sides of the street.

[7]. The case law cited by learned counsel for the petitioner viz. **Balbir Singh vs. Kailash Chander and another, 2014(3) PLR 141; Maharana Pratap Nagar Kalyan Samiti (Regd.) and others vs. Smt. Krishna Devi and others, 2014(1) PLR 821; Ram Singh Sharma vs. Smt. Parmod Kumari and anr., 1992 (2) PLR 396** and **Amar Singh vs. Gram Panchayat, Sabun, 1992(1) R.R.R. 42** would not squarely cover the issue in question. The case law cited by learned counsel are on different footings and do not answer the controversy involved in the present case.

[8]. The suit filed by the plaintiff on the basis of site plan prepared prior to the existence of Municipal Corporation would give rise to questionable notion as to why plaintiff filed the suit on the basis of site plan to which Municipal Corporation had no

connectivity at that time. The suit has been preferred on the basis of said site plan, therefore, the challenge laid by the plaintiff cannot squarely fit in the scheme of things. Even in the site plan filed by the plaintiff, there is a corner shape blockade at the dead end of the street from where there is no connectivity to the Delhi by-pass road.

[9]. Plaintiff has shown the street to be private street. On both the sides of the street, there are plots of defendants No.2 to 4. By not impleading defendants No.2 to 4, there cannot be any lawful adjudication of the claims of all the rival parties and that would lead to multiplicity of the litigation. In a suit for permanent injunction in respect of street restraining the Municipal Corporation from demolishing the construction, neighbours/inhabitants of the adjoining plot are necessary to be impleaded.

[10]. The facts and circumstances of the case titled **Smt. Shayama Jain vs. Smt. Savitri Devi and others, 2002(4) R.C.R. (Civil) 645** are near to the facts of the present case. Respondents No.2 to 4 are necessary parties for determination of suit of the plaintiff against the Municipal Corporation as in the absence of respondents No.2 to 4, the *lis* cannot be adjudicated completely. The rights of respondents No.2 to 4 viz.-a-viz. the street in question are involved in the present case. The

blockade/obstacle in the form of triangular shaped encroachment would also materially prejudice the rights of respondents No.2 to 4.

[11]. *Prima facie* consideration of the aforesaid facts would show that the suit in question can be adjudicated completely with the impleadment of respondents No.2 to 4 as contesting defendants. The object of Order 1 Rule 10 CPC is also to minimise the litigation and to avoid multiplicity of litigation. Since the street alleged to be public street by the respondent-Corporation is in issue, therefore, rights of all the users/co-sharers of the street are required to be ventilated by way of impleading them in the suit.

[12]. In view of aforesaid, no exception can be carved out to the indulgence granted by the trial Court as the same is on the correct parameters. This revision petition is accordingly dismissed.

May 27, 2019

Atik

Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No