

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

**CR No. 7395 of 2017 (O&M)
Date of decision: 02.04.2019**

Kailash Chand

... Petitioner

Vs.

Municipal Council, Rewari and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Mukesh Rao, Advocate for the petitioner.

Mr. S.K. Tripathi, Advocate
for respondent No.3.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 04.05.2017 (Annexure P-5), whereby an application of respondent No.3 for impleadment in the suit for permanent injunction challenging the action of the Municipal Council, Rewari for demolition has been allowed.

Mr. Mukesh Rao, learned counsel appearing on behalf of the petitioner submits that the plaintiff has instituted a suit for permanent injunction against the Municipal Council, Rewari.

On receipt of the notice in the suit regarding the alleged incident, defendants-respondents served notice dated 09.07.2015 under Section 208 of the Haryana Municipal Act, 1973. The applicant is nobody but a helper, who on behalf of the Municipal Council, Rewari has taken action. If at all he had any grievance, he had a separate remedy for his grievance.

Mr. Tripathi, learned counsel appearing on behalf of respondent No.3 submitted that his presence in the suit is very necessary as the construction was never carried out by the plaintiff as per sanctioned

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plan. The Municipal Council joined the hands with the plaintiff and thus the order under challenge is justified and liable to be upheld.

I have heard learned counsel for the parties, appraised the paper book and am of the view that there is some force and merit in the submission of Mr. Mukesh. The following main prayers was sought in suit:-

(a) That plaintiff prays for a decree of permanent injunction restraining the defendants, their agents and servants from demolishing the construction of aforesaid house and Todi Chajja of plaintiff or its any part as mentioned in para no.1 of the plaint and duly shown in the site plan attached herewith may kindly be passed in favour of the plaintiff and against the defendant with costs of the suit.

(b) In case during pendency of the suit, if defendants succeed in demolishing the aforesaid construction of house of the plaintiff or its any part then same may kindly be ordered to be restored in its original position on the costs and expenses of defendants by granting the decree of mandatory injunction be also passed in favour of the plaintiff and against the defendants with costs.”

Even if respondent No.3 is neighbour, who has some grievance with regard to the construction by the plaintiff, cannot be permitted to join the proceedings by stepping into the shoes by way of impleadment as the Municipal Council Rewari is the regulatory body, which had already taken action on his complaint. If at all there is some infringement of his private right, there is remedy of separate suit which learned trial Court has not taken care of and thus the order impugned suffers from a patent infirmity. Accordingly, the impugned order is set aside and the revision petition is allowed.

(AMIT RAWAL)
JUDGE

April 02, 2019
dinesh

Whether Speaking/Reasoned Yes
Whether Reportable Yes/No