

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 942 of 2019
Date of decision: 8.2.2019

Rajeev Sharma

.. Petitioner

v.

Suresh Kumar and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Lokesh Sinhal, Advocate for the petitioner.

...

AVNEESH JHINGAN, J. (Oral)

The present civil revision petition has been filed being aggrieved of the order dated 18.1.2019 passed by Civil Judge (Junior Division), Sohna (hereinafter described as 'Civil Court') dismissing the application under Order I Rule 10 of the Code of Civil Procedure, 1908 (for short, 'CPC').

The facts in brief are that respondent No. 1/plaintiff (hereinafter described as 'respondent No. 1') filed a suit for permanent injunction against respondent No.2/defendant (hereinafter described as 'respondent No. 2) claiming that respondent No. 1 is owner in possession of certain land detailed in the plaint.

It is pertinent to mention here that respondent No. 2 is a public

On notice, the Trust filed the written statement contesting the suit. During the pendency of the suit, the petitioner moved an application stating that he is the son of the founder trustee of the Trust and is already in litigation with the Trust. He has an apprehension that the Trust may, in collusion with respondent No. 1 get the suit decreed. The said application was dismissed. Aggrieved of the said order, the present civil revision petition has been filed.

Learned counsel for the petitioner contends that there is already a litigation between the petitioner and the Trust, the apprehension of the petitioner is that there may be collusion between respondent No. 1 and the Trust. The contention of the counsel for the petitioner lacks merit.

It is not being disputed that the Trust is already contesting the suit. The petitioner is not an office bearer of the Trust. He is merely claiming inheritance of membership. Even the membership of his father is in dispute. Hence, the petitioner is a total stranger to the litigation.

Order I Rule 10 CPC is reproduced below:

“ ORDER I

PARTIES TO SUITS

XX

XX

XX

10. Suit in name of wrong plaintiff.- (1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.

(2) Court may strike out or add parties.- The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

(3) No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.

(4) Where defendant added, plaint to be amended.- Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant.

(5) Subject to the provisions of the Indian Limitation Act, 1877 (15 of 1877), section 22, the proceedings as against any person added as defendant shall be deemed to have begun only on the service of the summons.”

From a perusal of the above quoted Rule, it is evident that only in cases where the court is satisfied that for determination of the real matter in dispute, it is necessary to substitute or add a party, the application can be allowed. The dispute is between respondent No. 1 and the Trust. The petitioner is not at all a necessary party, rather he is an outsider to the proceedings.

No interference is called for in the impugned order.
Accordingly, the revision petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

8.2.2019
mk

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No