

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 255

CR-8724-2017

Date of decision : 27.02.2019

Tejinder Pal Singh

..... Petitioner

VERSUS

M/s Bhawani Castings
Pvt. Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms. Gurneet Sagoo, Advocate, for
 Mr. Karan Garg, Advocate, for the petitioner.

 Mr. Anand Chhibbar, Senior Advocate, with
 Mr. Prabhu Deep, Advocate, for respondents No. 1 to 3.

 Mr. Anil K. Ahuja, Advocate, for respondents No. 4 and 5.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 17.08.2017, passed by the Additional Civil Judge (Senior Division), Amloh (for short, the Trial Court), rejecting the application filed by the petitioner under Order 1 Rule 10 CPC through which he sought impleadment of Kotak Mahindra Bank Ltd., Amloh and two of its Chief Managers as defendants. Also under challenge is the dismissal of the petitioner's application filed by him under Order 6 Rule 17 CPC seeking amendment of his plaint to make therein averments to support the aforesaid impleadment application filed by him.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioner filed a suit seeking therein to declare all the resolutions passed by the Board of Directors of respondent No. 1 after 01.10.2011 as null and void on the ground that the petitioner had not been associated with the passing of such resolutions. Mandatory injunction to direct the Oriental Bank of Commerce to withdraw loan facilities of any kind advanced to respondents

No. 1 to 3 after 01.10.2011 was also prayed for. On being put to notice, the respondents who were the defendants in the suit, appeared before the Trial Court and filed their respective written statements to which the petitioner filed his replication(s). Before the issues could be framed by the Trial Court, the petitioner filed an application under Order 1 Rule 10 CPC to implead Kotak Mahindra Bank Ltd. as also two of its Chief Managers as defendants *inter alia* on the ground that during the pendency of the suit respondents No. 1 to 3 had availed loan facilities from them and in view of his aforesaid second prayer their impleadment had become necessary. In the same application, the petitioner also prayed for amendment of his plaint so that he could include averments in his plaint to support the impleadment of the aforesaid defendants. The Trial Court being of the view that Kotak Mahindra Bank Ltd. and two of its Chief Managers were not necessary parties rejected the petitioner's impleadment application and consequently disposed of the amendment application as having been rendered infructuous through the order which is under challenge in the present proceedings.

Learned counsel for the parties have been heard.

One of the prayers made by the petitioner in his suit is for the issuance of mandatory injunction to direct the withdrawal of loan facilities of any kind advanced to respondents No.1 to 3 after 01.10.2011 as according to the petitioner all the resolutions passed by respondents No.1 to 3 after 01.10.2011 were illegal for the reason that at the time of passing of such resolutions the petitioner had not been associated. During the pendency of the suit, respondents No. 1 to 3 availed loan facilities from Kotak Mahindra Bank Ltd. through its branches at Chandigarh and Amloh.

In the light of the above facts Kotak Mahindra Bank Ltd. as also two of its Chief Managers stationed at Chandigarh and Amloh are necessary parties as no relief qua the aforesaid prayer can be granted to the petitioner without impleading the aforesaid Bank and its two Chief Managers. Thus, the petitioner's impleadment application deserves to be allowed especially when such application was filed by him even before the framing of issues by the Trial Court.

As a necessary corollary, the amendment application preferred by the petitioner seeking therein to amend his plaint for adding therein averments to support the impleadment of Kotak Mahindra Bank Ltd. and two of its Chief Managers stationed at Chandigarh and Amloh also needs to be allowed.

Resultantly, the impugned order is set aside and both the applications preferred by the petitioner under Order 1 Rule 10 CPC as also under Order 6 Rule 17 CPC are allowed.

Needless to say that after issuance of notices to the newly added defendants all the defendants in the suit would be granted an opportunity by the Trial Court to file their respective written statements/amended written statements to which the petitioner would have right to file replication. Thereafter the Trial Court shall frame the issues and after granting adequate opportunities to both the parties dispose of the petitioner's suit within one year from the date of receipt of a certified copy of this order.

The present petition is allowed in the above terms.

27.02.2019
shamsher

[DEEPAK SIBAL]
JUDGE

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