

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 351 of 2019

Date of Decision: 18.01.2019

Mehal Singh

.....Petitioner

Versus

Ranjeet Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sanjay Vij, Advocate
for the petitioner.

AVNEESH JHINGAN, J.(oral)

Aggrieved of the order dated 3.8.2018 passed by the Additional Civil Judge, (Senior Division), Guruharsahai, dismissing the application of the petitioner under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (for short 'CPC'), the present civil revision petition has been filed.

The facts in brief are that respondents No.1 and 2/plaintiffs got an electric connection in priority category and the tubewell connection was installed. Respondents No. 1 and 2/plaintiffs filed a suit for permanent injunction restraining the respondent No.3/defendant from disconnecting the electric connection. The defendant in the suit is Punjab State Power Corporation Limited Guruharsahai. It is alleged that the same was installed on the land of a third person. In the meantime, the petitioner moved an application under Right to Information Act and received certain information with regard to the connection released to the plaintiffs. On the basis of the said information, an application was moved under Order 1 Rule 10 CPC to implead him as a party in the said suit. The application was dismissed.

Aggrieved of the dismissal, the present civil revision petition has been filed.

Learned counsel for the petitioner contended that respondents No. 1 and 2/plaintiffs have played fraud and taken the tubewell connection which has been installed on the land of a third party. As such, the learned Court below erred in dismissing the application for impleadment as the petitioner was a necessary party.

The contention raised by learned counsel for the petitioner lacks merit.

The suit filed is only with regard to permanent injunction restraining the defendants from disconnecting the electricity connection. The dispute is inter-se the plaintiff and Punjab State Power Corporation Limited, Guruharsahai. It is nowhere pleaded or even argued that the tubewell has been installed on the land of the applicant. It is stated to be on some third person's land on which the plaintiffs have claimed to be a lessee. The right of the petitioner is no where affected. The petitioner is not a necessary party.

Order 1 Rule 10 CPC is quoted below:

"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 (XV 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 the perusal of the Rule, it is evident that application can be allowed, if the impleadment of the parties is necessary for determination of real issue in dispute. In the present case, nothing is there to show that the petitioner is a necessary party to decide the real issue in the suit for permanent injunction.

The civil revision petition being without merits is dismissed.

18.01.2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No