

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 504 of 2020 (O&M)
Date of Decision: 25.02.2020

Nishan Singh

.....Petitioner

Vs.

Jasvinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Apanjyot Singh Virk, Advocate,
for the applicant-petitioner.

AMOL RATTAN SINGH, J. (ORAL)

CM No. 3236-CII-2020

Pursuant to the order dated 23.01.2020, this application has been filed, seeing to place on record the application filed by the petitioner before the learned trial court under the provisions of Order 1 Rule 10 of the CPC, by which application he sought that the the Haryana Urban Development Authority/*Haryana Shahari Vikas Pradhikaran* (HUDA/HSVP), be ordered to be impleaded as a necessary defendant in the suit filed by the respondents-plaintiffs.

The application is allowed, subject to all just exceptions and the aforesaid application, stated to have been filed by the petitioner before the learned trial court, along with a demarcation report dated 21.04.2005, are ordered to be taken on record.

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By this petition, the petitioner challenges the order dated 08.11.2019 passed by the learned Civil Judge (Junior Division), Panchkula, whereby the

application moved by the petitioner under Order 1 Rule 10 of the CPC, for impleading the Haryana Urban Development Authority/*Haryana Shahari Vikas Pradhikaran* (HUDA/HSVP) as a necessary party to the suit, has been dismissed.

A perusal of the application shows that the petitioners' contention before the trial court was that the suit land had been acquired by HUDA/HSVP and a demarcation report was also prepared at the time of acquisition of the suit land and consequently, HUDA/HSVP, being the owner of the land, was a necessary party to the suit.

A perusal of the impugned order shows that in reply to the aforesaid application the respondent-plaintiffs had firstly raised an objection to the effect that the plaintiffs being the masters of their own suit, it was up-to them as to whom they wished to implead as defendants in the suit and whom not, and in any case their suit was one by which they sought possession of *khasra* no. 23/2, with the acquisition by HUDA being only of *khasra* no. 23/1.

Having noticed the aforesaid fact that the plaintiffs were masters of their own suit and it was up-to them as to whether they wished to implead HUDA or not, it was held that the appellant (who is one of the legal heirs of defendant no. 2), could not seek impleadment of a co-defendant whom the plaintiff did not wish to implead.

Before that court, learned counsel has pointed to a demarcation report dated 21.04.2005 (which has been taken on record today by allowing CM No. 3236-CII-2020), which is stated to have been led by way of evidence before the learned trial court.

From that report, he points to a single line, in which it is stated by the Revenue Official ('*Kanungo*'), that "the whole land of Village Majri has been acquired except '*Khasra*' no. 21/2."

The contention therefore is that as per the aforesaid statement, no land other than the aforesaid '*Khasra*' no. 21/2 was left out of the acquisition and consequently, the contention of the respondents to the contrary is a fallacy and therefore, the Haryana Urban Development Authority/*Haryana Shahari Vikas Pradhikaran* (HUDA/HSVP) is a necessary party to the suit.

Having considered that argument, I find myself unable to agree with learned counsel, because simply to prove as to what '*Khasra*' numbers were acquired in an acquisition that took place in the year 1974, and what was left out from such acquisition, eventually (naturally), only the relevant notifications issued under the provisions of the Land Acquisition Act, 1894, would need to be led by way of evidence, those being public documents in any case.

Hence, simply to prove or disprove that fact, I do not see how HUDA/HSVP is a necessary party, and therefore, I find no ground to interfere with the impugned order.

Consequently, this petition is dismissed in *limine*.

February 25, 2020

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Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)

JUDGE

Yes
No.