

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

(117)

CR-2148-2020 (O&M)

Date of Decision: October 15, 2020

Sandeep

.. Petitioner

Versus

Raj Rani and another

.. Respondents

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Balraj Gujjar, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI, J.(ORAL)

CM-7977-CII-2020

As prayed for, the application is allowed.

CM-8966-CII-2020

Present application has been filed to place on record the site plan dated 30.09.2020 in compliance of the order dated 15.09.2020.

Keeping in view the facts mentioned in the application, the same is allowed and site plan dated 30.09.2020 is permitted to be taken on record.

CR-2148-2020

Present petition has been filed challenging the order dated 13.07.2020 (Annexure P-12) by which, the prayer of the petitioner to be impleaded as a respondent in the suit filed by the respondent No.1, has been declined.

Learned counsel for the petitioner argues that the present suit has been filed by the plaintiff seeking permanent injunction restraining the defendant Municipal Committee from interfering into the possession of the plaintiff over the suit property, which is open portion of land in front of the house of plaintiff, as the same is being owned and possessed by the plaintiff.

Municipal Committee, against whom the injunction is sought, has been impleaded as a respondent in the present suit. Learned counsel for the petitioner submits that the suit is not being defended properly by the Municipal Committee and therefore, the petitioner, who is the resident of area, has a right to be impleaded as a respondent in the present suit so as to defend the interest of the Municipal Committee for the reason that the permanent injunction is being sought in respect of a property which is commonly being used by everyone though, the suit property belongs to the Municipal Committee, Bawani Khera, District Bhiwani.

The prayer of the petitioner, as raised by filing an application under Order 1 Rule 10 CPC, has been rejected by the Civil Judge (Jr. Division), Bhiwani vide impugned order dated 13.07.2020, which order has been impugned in the present petition.

Learned counsel for the petitioner argues that the petitioner is a necessary party especially in view of the fact that the suit is not being defended by the Municipal Committee properly and the plaintiff is enjoying the interim order in his favour.

Once, the owner of the portion/suit property, in respect of which the suit of permanent injunction is sought, even according to the petitioner herein, is in the ownership of the Municipal Committee, and the Municipal Committee has been impleaded as a respondent, the present petitioner has no right to be impleaded as a respondent in the present suit by stating that the suit is not being defended properly by the Municipal Committee.

As per the allegations in the suit, petitioner claims the possession and the ownership of the land in question and is seeking the permanent injunction against the Municipal Committee, who on the other

hand is claiming the ownership of the said disputed land. Once, the petitioner is neither the owner nor in possession, he cannot seek the impleadment and that too when the same has been objected by the plaintiff, merely by stating that the suit filed by the plaintiff is not being contested properly by the Municipal Committee. In the facts and circumstances of the present case, the petitioner is neither the necessary nor the proper party in the present suit.

Learned counsel for the petitioner submits that the connivance of the officials of the Municipal Committee is writ large as they did not file the reply to the civil suit for a period of one year, due to which the plaintiff was able to get the interim order in his favour.

In respect of this grievance, the petitioner can approach the higher authorities against the officials of the Municipal Committee raising the said grievance but the said action cannot give a right to the petitioner herein to seek impleadment in the suit filed by the plaintiff. In case, the petitioner is aggrieved in any manner against the inaction on the part of the Municipal Committee, he has a remedy of raising the said grievance before the higher authorities in the Department of Local Government, Haryana.

Learned counsel for the petitioner further submits that the plaintiff is taking the benefit of interim order and after getting the interim order with regard to the possession of the land, the plaintiff had sold the said land to someone else and no action has been taken by the officials of the Municipal Committee, which itself shows the connivance of the officials of Municipal Committee with the plaintiff. Learned counsel for the petitioner further submits that the Municipal Committee rather than bringing the said fact to the notice of the Civil Court has apparently accepted the transfer of the said portion of the land by the plaintiff without any objection.

In this regard, once again it is reiterated that in case the plaintiff has any grievance with regard to any act of commission and omission on the part of the officials of the Municipal Committee of not defending the interest of Municipal Committee, the petitioner has a remedy of approaching the appropriate authority of the Government of Haryana, but, in no way petitioner can claim to defend the suit on behalf of the Municipal Committee, filed by the plaintiff by getting himself impleaded and that too against the wishes of the plaintiff when no relief has been sought in the suit against the petitioner.

Learned counsel for the petitioner submits that the suit filed by the plaintiff is at initial stage as the issues are yet to be framed and therefore, no prejudice will be caused to the plaintiff in case, the present petitioner is impleaded as respondent.

The plaintiff is the master of the suit. Nobody can be imposed upon the plaintiff to contest the suit especially in case when no relief is being sought against a particular person/authority by the plaintiff. The petitioner cannot impose himself upon the plaintiff especially when no relief is being sought by the plaintiff in the present suit against the petitioner herein.

That be the position, no ground is made out to interfere in the order dated 13.07.2020 (Annexure P-12).

Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

October 15, 2020
harsha/naresh.k

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