

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 8330 of 2019 (O&M)

Date of Decision: 6.1.2020

Bhagwat Singh

...Petitioner

Vs.

Maya Devi and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Abhimanyu Singh, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. No ground for interference is made out in the order dated 15.11.2019 passed by Civil Judge (Jr. Divn.) Sohna. The application under Order 1 Rule 10 CPC filed by the petitioner has been dismissed on the ground that his presence as third party is neither necessary nor would he be a proper party to the suit without whom the controversy cannot be effectively and completely adjudicated upon for settling all the questions involved in the suit.

2. In the suit, the plaintiff has challenged only a notice issued to her under Section 181 of the Haryana Municipal Act, 1973 bearing No. 5241 dated 14.02.2017 for removal of encroachments over the disputed *rasta*. The suit is between the plaintiff-Maya Devi and the defendant Municipal Committee, Sohna and the issue of any encroachment of *rasta* will be considered in the suit in accordance with law. It is not the case of the applicant/petitioner that the disputed *rasta* is the only access to his plot and the interim order of injunction granted to the Maya Devi will work

to his disadvantage everyday. This is not the case.

3. I hardly find any reason to interfere with the impugned order dismissing the application. It may be noticed that earlier another person claiming rights as the applicant had filed an application under Order 1 Rule 10 of the CPC which was dismissed by the trial Court on 31.03.2017. This is the second attempt to achieve what a similarly situated person failed to obtain. If such attacks are permitted it would lead to multiplicity of applications in a suit restricted to the validity of notice under Section 181 served on the plaintiff Maya Devi to which action, the petitioner is a rank outsider who is not affected by the notice. The trial Court is right in commenting that if the applicant feels aggrieved by any obstruction in the *rasta*, he is free to file an independent suit or take such remedies as are available to him in law or as are advised.

4. The trial court will not entertain any such application henceforth to clog the trial. If any such application is filed it shall be summarily dismissed citing this order, and that's all, by a single line order.

5. The petition is wholly misconceived, just as the application was, and is accordingly dismissed.

(RAJIV NARAIN RAINA)
JUDGE

6.1.2020

kv

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