

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

CR No.621 of 2021 (O&M)

DATE OF DECISION: 16.03.2021

Satbir and another

.....Petitioners

versus

Sukhvinder Singh alias Khushvinder and others

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Dharamvir Sharma, Advocate for the petitioners

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ALKA SARIN, J. (Oral):

Heard through physical hearing.

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 03.03.2021 (Annexure P-4) passed by the Court of Civil Judge (Junior Division), Sohna, District Gurugram dismissing the application of the petitioners under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (CPC) for being impleaded as plaintiffs.

The brief facts relevant to the present case are that respondent Nos.3 to 6 herein, namely, Om Prakash etc. filed a suit for declaration with consequential relief of permanent injunction to the effect that the plaintiffs therein had attained the right of ownership and had become the owners of the suit land as detailed and described in para-1 of the plaint under the provisions of the Punjab Tenancy Act, 1887 and the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 and further for a decree of permanent injunction restraining the defendants therein from interfering in their peaceful possession. The said suit was filed on 12.11.2014. When

the suit was at the final stage, on 05.02.2021, an application (Annexure P-1) was filed by the present petitioners for being impleaded as plaintiffs in the suit. Vide the impugned order dated 03.03.2021 (Annexure P-4) the Civil Judge (Junior Division), Sohna dismissed the said application. Aggrieved by the said order, the petitioners have filed the present revision petition.

Learned counsel for the petitioners would contend that as per the jamabandi for the year 1996-1997 (Annexure P-5) and jamabandi for the year 2001-2002 (Annexure P-6) the predecessors-in-interest of the petitioners herein have also been recorded in the column of cultivation along with the plaintiffs and, hence, the petitioners' right is the same as that of the plaintiffs in the suit.

I have heard the learned counsel for the petitioners and have been through the paper-book with his assistance.

A perusal of the application filed under Order 1 Rule 10 CPC (Annexure P-1) for impleadment of the petitioners as plaintiffs shows that the same is totally bereft of any details as to when and from whom the petitioners came to know about the pendency of the present suit and how the application for impleadment is maintainable at the fag end of the trial of the civil suit. Further, there is no dispute that in case the petitioners have any independent right of being the occupants or tenants they have the remedy of approaching the court for getting their alleged rights determined in accordance with law.

The plaintiffs Om Prakash etc. had filed the suit in the year 2014 and now in the year 2021 the present application (Annexure P-1) has been filed which is nothing but an attempt to delay the Court proceedings. The petitioners herein may have an independent right of being the occupants or tenants but they have to plead and lead cogent evidence to

prove the same. They cannot ride piggy-back in the suit filed by the plaintiffs Om Prakash etc. and cannot derive any benefit which may have accrued to the plaintiffs Om Prakash etc. in the suit filed by them.

The learned counsel, during the course of hearing, argued that the petitioners do not want to lead any evidence and would be simply relying upon the evidence led by the plaintiffs in the suit. However, he could not explain as to how any evidence could be read in the petitioners' favour without there being any foundational pleadings. It is trite that a plaintiff has to stand on his own feet – he has to not only prove his case but also plead the same. Merely by getting impleaded as plaintiffs the petitioners cannot derive benefit of the averments made in the plaint. Interestingly, the plaint in the civil suit filed by the plaintiffs Om Prakash etc. has no mention of the present petitioners or their alleged rights in the suit land. The reliance by the counsel for the petitioners on the exhibits in the civil suit i.e. the jamabandi for the year 1996-1997 (Annexure P-5) and the jamabandi for the year 2001-2002 (Annexure P-6) is also misplaced as no amount of evidence can be looked into in the absence of supportive pleadings. It is always open to the petitioners to pursue their independent remedy in accordance with law.

In view of the discussion above, this Court finds no merit in the present civil revision petition and the same is dismissed.

**(ALKA SARIN)
JUDGE**

16.03.2021
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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