

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

CR-795-2021 (O&M)

Date of decision: October 26, 2021

Ravi Malik

...Petitioner

Versus

Indra Devi @ Indrawati and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sandeep Singhal, Advocate for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the impugned order dated 08.02.2021 (Annexure P-9) passed by learned Civil Judge (Jr. Division)-cum-Judicial Magistrate 1st Class, Rohtak whereby an application under Order 1 Rule 10 CPC moved by respondent No.3 has been allowed.

2. I have heard learned counsel for the petitioner and gone through the case file.

3. No interference is called for in the order assailed herein, which is premised, inter alia, on the following reasoning:

“xxxxx

7. *In the present case, the document dated 02.02.2002 prima-facie, shows that it is not a document which has recorded some past transaction and thus, not a memorandum of partition. Such document through which shares were divided amongst some of owners has tendency to create right in the suit property and thus, required compulsory registration under section 17 of the Registration Act.*

8. *Furthermore, the document further reveals that the applicant has put her signature as the witness and was not party to such settlement deed. This is further a question needs deliberation that whether the document would bind the applicant as an attesting witness merely because recitals were made in the document qua her. It is a settled law that attestation by a witness does not work as an estoppel and she can always deny its contents. (Ref: Ramesh*

Chander and others Versus Budha Singh and another: Vol. CXXXV-(2003-3) PLJ 840).

9. The another submission of the respondent that the applicant should come through a separate case as she cannot be permitted to convert a simple suit of partition into a complicated one for declaration of title, is also not tenable. The authorities relied upon by the learned counsel for the respondent namely **Nawab Singh Versus Ompal Singh and others: 2012 (3) RCR (Civil) 550** is distinguishable as the plea taken by the applicant is novel and was not taken earlier by either of the parties as was the case in the above referred case. Moreover, the applicant has not sought any declaration of title rather, she represents herself as a necessary party being the legal heir of deceased Rajinder Singh Malik.

10. The discussion made above reveals that the settlement deed dated 02.02.2002 prima-facie, does not create any obligation upon the applicant and being the legal heir of deceased Rajender Singh Malik, she has right to get impleaded in the suit as necessary party. The concept of dominus-litus cannot be extended as to create an embargo over the impleadment of necessary party. Further the impleadment of the applicant is otherwise necessary to prevent multiplicity of the proceedings. It is further apposite to mention that impleadment of applicant would not cause any substantial prejudice to the plaintiff/ respondent and such impleadment of Sonal Ahlawat is necessary for determination of real matter in dispute and so, to do the effective adjudication, this Court orders for the impleadment of applicant Sonal Ahlawat as defendant by allowing the present application under Order 1 Rule 10 of Civil Procedure Code.”

4. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this court.

5. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement with.

6. Dismissed.

(ARUN MONGA)
JUDGE

October 26, 2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No