

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

CR-1480 of 2021 (O&M)

Date of decision: 01.10.2021

Gurmukh Singh

...Petitioner

Versus

Gurdev Singh (since deceased thr. LR) and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

By way of filing the present revision petitioner, revisionist Gurmukh Singh prays for setting aside order dated 25.01.2021, passed by Civil Judge (Jr. Divn.) Jagraon, vide which an application preferred by the revisionist under Order 1 Rule 10 CPC for impleadment has been dismissed.

Briefly stated facts of the case are that, in a civil suit for partition titled as Gurdev Singh Vs. Charan Singh etc., a preliminary decree was passed on 29.09.2015; the proceedings for passing of final decree are pending, during the course of those proceedings, applicant Gurmukh Singh filed an application for impleading him as a defendant for the reason that he had challenged the preliminary decree dated 29.09.2015 by filing a civil suit which is pending in the Court of Civil Judge (Jr. Divn.) Jagraon; the house in suit was agreed to be purchased by father of the applicant, vide agreement dated 05.11.2015 coupled with

agreement dated 08.06.2015; the father of the applicant came in possession of the house in question and retained such possession till his death in the year 2016; the applicant along with his family are residing in this house even prior to death of his father; the applicant is the only son and legal heir of his father Bachan Singh, as such, he is a necessary party and be impleaded as one of the defendants in the proceedings for passing of final decree qua the house in suit.

The application was resisted by the respondent/decee holder taking various legal objection as well as on facts also.

The application was dismissed by Civil Judge (Jr. Divn.) Jagraon, vide impugned order. The operative part of the order contained in para No.4 is reproduced for ready reference:-

“The applicant Gurmukh Singh s/o Bachan Singh has come to the court, claiming his ownership over the suit property, on the basis of agreement dated 05.11.2015 coupled with agreement dated 08.06.2015 allegedly executed by respondents in favour of father of applicant. It has also been the specific stand of the applicant that he is in possession of entire suit house. Earlier also applicant filed same application in the preliminary decree and same was dismissed by Court of Sh. Jaapinder Singh, the then ACJSD, Jagraon as applicant failed to place on record the agreement on the basis of which he is claiming his ownership over the suit house. No circumstance changed till now as applicant has not annexed the copy of agreement on the basis of which he is claiming his ownership over the suit house. Moreover, applicant has also filed one civil suit claiming his ownership over the suit property on the basis of agreement dated 05.11.2015 but same stands dismissed by the court of Sh. Shaminder Pal Singh, Id. CJJD, Jagraon. Appeal against the same is pending. The

applicant can claim his right over the property in dispute only when any court of law upheld his agreement. At present, his application for impleading him party to the final decree does not lie as he has no document to show is ownership over the property in dispute. Accordingly, present application is without any merit and same is hereby missed.”

I have heard learned counsel for the revisionist besides going through the record and I find that the order is quite detailed, well reasoned and it does not suffer from any illegality or infirmity, much less the same being arbitrary or having been passed in violation of the settled judicial position on the subject. The trial Court while dismissing the application has kept into view the fact that earlier the applicant had filed a similar application during pendency of suit for partition, which had been dismissed by the trial Court and further, the applicant had failed to place on record the agreement on the basis of which, he is claiming ownership. It has further been noticed that applicant had filed an independent civil suit claiming his ownership over the suit property on the basis of agreement dated 05.11.2015 but it had been dismissed, though, the appeal against the same is pending. Therefore, no occasion was there to allow his application for impleading him as a party in proceedings for passing of final decree.

Learned counsel for the revisionist has referred to judgments **Punjab Wakf Board, Ambala Cantt. Vs. Harbans Singh**, 1997(4) RCR (Civil) 603, **Savitri Devi Vs. District Judge, Gorakhpur & Ors.**, 1999 AIR (SC) 976 and **Nima Kaur Vs. Surjith Singh & Ors.**, 1997(5) ALT 183. These judgments are not helpful to the revisionist due to different

facts and circumstances including the context in which such observations were made.

No reason is there to take a different view and upset the impugned order, consequently to allow the application under Order 1 Rule 10 CPC. The revision petition is found to be without merit and is dismissed accordingly.

01.10.2021
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No