

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

CR-1856-2021

Date of decision:-9.9.2021

Ajay Kumar and others

...Petitioners

Versus

Anil and another

...Respondents

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

Present: Mr.Mukesh Kumar Verma, Advocate
for the petitioners.

H.S. MADAAN, J.

Briefly stated, the facts of the case are that plaintiffs Anil and his brother Sunil sons of late Sh.Jagdish Parsad, residents of Nai Anaj Mandi, Rewari had brought a suit for grant of permanent injunction against defendants i.e. Dakshin Haryana Bijli Vitran Nigam Ltd, Rewari, (hereinafter referred to as DHBVNL), AEE/SDO, Sub Divn. City (I), DHBVNL, Ajay Kumar, Ajit Kumar, Ashwani Kumar and Ram Kishan. On notice the defendants appeared. On 28.7.2020 following order was passed by the trial Court:

“Plaintiff Anil Kumar vide his separate recorded statement has stated that as defendants No.1 and 2 in their written statement have stated that they are not disconnecting disputed electricity connection at the instance of defendants no.3 to 6 so, plaintiffs give up them as defendants in the present case. Heard. In view of the statement made by the plaintiff, considering the averments made in the plaint and the relief sought by the plaintiff against defendants

no.1 and 2 and it is well settled that plaintiff is the master of his suit, so, as no relief is now sought against defendants no.3 to 6 so, defendants no.3 to 6 are deleted as defendants in the present suit being given up by the plaintiff. On the request of ld. Counsel for plaintiff, case is adjourned to 21.9.2020 for filing amended title and consideration on the stay application. Interim order is extended till then.”

Defendants No.3 to 5 had filed an application under Order 1 Rule 10 CPC for impleading them as a party. That application was dismissed, which left such defendants aggrieved and they have filed the present revision petition.

I have heard learned counsel for the revisionists/petitioners besides going through the record.

The law is well settled that plaintiff is master of his suit and he is to implead such persons against whom he feels aggrieved and seeks relief. No person can be ordered to be joined as a party in the suit against wishes of the plaintiff unless presence before the Court of that person is found to be necessary for proper adjudication of the controversy. In the instant case, the trial Court has found that applicants are not necessary party to the present suit and it does not come out that their presence is necessary to enable the Court for effectually and completely to adjudicate upon the controversy involved in the suit. The applicants are owners of the suit property, which is in possession of plaintiffs. The electricity connection had been provided to the suit property. The plaintiffs had filed

the suit in question apprehending that the applicants being owners of the property were trying to get the electricity supply to the property disconnected through the DHBVNL, Rewari – defendant No.1 and its officers. However, such defendants in the written statement filed by them had stated that they will not disconnect the electricity connection at the instance of defendants No.3 to 6 and names of defendants No.3 to 6 were deleted as defendants. Therefore, the main dispute is between plaintiffs and defendants No.1 and 2 and presence before the Court of applicants, who are said to be asking defendants No.1 and 2 to disconnect the electricity supply to the property in possession of plaintiffs is not necessary as has been rightly observed by the trial Court in the impugned order.

The order passed by the trial Court is quite detailed, well reasoned based on proper appraisal and appreciation of the legal as well as factual position and the same does not suffer from any illegality and infirmity and can certainly be not termed as arbitrary or having been passed against settled legal principles. It does not fall within four corners of Section 115 CPC dealing with power of revision by the High Court or purview of Article 227 of Constitution of India.

Thus, finding no merit in the civil revision petition, the same stands dismissed.

9.9.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No