

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

211

CR-2294-2020

Decided on : 23.02.2021

Jaswinder Singh

... Petitioner

Versus

Balraj Singh & another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.J.K.Singla, Advocate, for the petitioner.

Mr.L.S.Sidhu, Advocate, for respondent No.1.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J. (Oral)

Challenge in the present revision petition, filed under Article 227 of the Constitution of India, is to the order dated 06.03.2019 whereby the application filed by defendant No.1/petitioner for impleadment of one Gurcharan Singh in the suit for permanent injunction has been dismissed by the Civil Judge (Jr.Divn.) Mansa.

The reasoning given by the Court below is that it is for the plaintiff to identify the parties against whom he has any grievance and to implead them for the necessary relief and that he cannot be compelled to face litigation with the person against whom he has no grievance and if any third party has any grievance, he is entitled to be impleaded in order to avoid multiplicity of the case. The plaintiff having admitted that Gurcharan Singh is the co-sharer in the suit property and therefore, he was not likely to suffer any loss in the result of the suit as it was a matter of evidence whether he has transferred the land through a registered Gift Deed in favour of the defendant was the reason for dismissing the application.

Counsel for the petitioner vehemently submits that the case of the plaintiff-respondent was that the transfer deed dated 08.11.2019 is only a paper transaction and therefore, he was a necessary party, as such. It is submitted that no harm would be caused as Balraj Singh-plaintiff is another co-sharer in the suit land which in total measures 255 kanals 9 marlas.

Counsel for respondent No.1, on the other hand, has justified the said order on the principle of “Dominus Litus” and submitted that no relief is sought against Gurcharan Singh.

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-2-

After hearing counsels for the parties, this Court is of the opinion that there is no merit in the present revision petition. A perusal of the suit for permanent injunction would go on to show that the same has been filed on account of the fact that plaintiff is in exclusive possession of 68 kanals 4 marlas of land as co-sharer along with other co-sharers and the defendant had no concern with the suit land and therefore, he be restrained from dispossessing the plaintiff from the suit land. The right to challenge the transfer deed has also been kept open and therefore, the plaintiff has alleged that the suit land is part of the total land of 255 kanals 9 marlas, as per the Jamabandi for the year 2013-14 and thus, apprehends dispossession at the hands of the petitioner who is a beneficiary of the said Gift Deed.

Provisions of Order 1 Rule 10(2) CPC provides that the plaintiff or defendant whose presence before the Court may be necessary in order to enable the Court effectively and completely adjudicate upon and settle the dispute involved in the suit may be added. In the present case, apart from the issue of possession of the plaintiff, there is no such controversy which would require the donor to be arrayed as a defendant since no relief is claimed against the said person.

Even otherwise, by executing the Gift Deeds, the said person has washed his hands of the said land and could have no interest to defend the litigation on the asking of the donee who himself is the beneficiary. Admittedly, possession has also been delivered to him, as per Clause 6 of the Gift Deeds (Annexures P-2 & P-3) and therefore, this Court does feel that the impugned order dated 06.03.2019 is absolutely justified and no error can be found in it which would warrant any interference under the supervisory powers of this Court.

Accordingly, in view of the above discussion, the present revision petition is dismissed.

FEBRUARY 23, 2021

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**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No