

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

CR No.2598 of 2021

Date of Decision : 09.11.2021

Vishal

....Petitioner

VERSUS

Pritam Lal Kataria & Anr.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Navneet Singh, Advocate for the petitioner.

ALKA SARIN, J.

Heard through video conferencing.

The present revision petition under Article 227 of the Constitution of India has been filed for setting aside the impugned order dated 14.10.2021 (Annexure P-6) passed by the Civil Judge (Junior Division), Sonapat whereby the application filed by the respondent No.2 for being impleaded as a party has been allowed.

2. The brief facts relevant to the present case are that the plaintiff-petitioner filed a suit for permanent injunction against the defendant-respondent No.1 claiming that he was in possession of the suit property (a shop) where he was running his business of a restaurant for the last 13 years and that as per the records of the Municipal Corporation Sonapat the suit property stood in the name of Hari Bhumi Dafter. According to the plaintiff-petitioner some unknown persons had raised claims of ownership over the suit property and the plaintiff-petitioner had got published a general information in the Jag Marg newspaper on 31.07.2019 vide which the

registered owner of the suit property was called along with the relevant documents of ownership of the suit property. However, no one came to claim the ownership over the suit property. However, on 20.08.2019 the defendant-respondent No.1, in collusion with the police, started extending threats to dispossess the plaintiff-petitioner from the suit property. Hence, the plaintiff-petitioner filed the present suit on 26.08.2019.

3. On 21.11.2019 the defendant-respondent No.1 filed his written statement (Annexure P-2) denying the averments made in the plaint. A preliminary objection was also raised by the defendant-respondent No.1 that the suit property was purchased by his wife Smt. Durga Devi vide registered sale deed dated 12.04.1999 and that his wife Smt. Durga Devi had executed a registered Will in favour of her daughter Smt. Meenakshi and that his wife Smt. Durga Devi had expired on 23.10.2018 and, therefore, Smt. Meenakshi, was the owner of the suit property who had not been impleaded.

4. On 21.11.2019 itself an application under Order 1 Rule 10 CPC (Annexure P-4) was also filed by Smt. Meenakshi (respondent No.2) for impleading her as a necessary party to the present suit on the ground that she is the actual owner of the shop in dispute as the shop was purchased by Smt. Durga Devi wife of the defendant-respondent No.1 vide a registered sale deed dated 12.04.1999 and thereafter she had executed a registered Will dated 01.05.2017 in her favour. It was further stated that Smt. Durga Devi expired on 23.10.2018 and after her death Smt. Meenakshi (respondent No.2) was the owner of the suit property and, hence, is a necessary and proper party in the present suit.

5. On 24.02.2020 the plaintiff-petitioner filed a reply (Annexure P-5) to the application under Order 1 Rule 10 CPC denying that Smt.

Meenakshi is owner or in possession of the suit property and the suit property is being recorded in the name of Hari Bhumi Dafter in the records of the Municipal Corporation. It was also stated that the plaintiff-petitioner is the master of a suit and is in actual settled physical possession over the suit property and that the present suit is a suit for permanent injunction and therefore a question of ownership is not to be decided by the Court.

6. Vide impugned order dated 14.10.2021 (Annexure P-6) the Trial Court allowed the application and Smt. Meenakshi (respondent No.2) was ordered to be impleaded as defendant No.2 in the suit. Hence, the present civil revision petition.

7. Learned counsel for the plaintiff-petitioner has contended that the Trial Court has erred in allowing the application under Order 1 Rule 10 CPC and impleading Smt. Meenakshi as a defendant No.2 in the suit. According to him the suit was only for permanent injunction and no declaration regarding title was being sought and further that the plaintiff-petitioner was the master of his suit and entitled to decide whom he wanted to implead as a party.

8. I have heard learned counsel for the plaintiff-petitioner. In the present case the plaintiff-petitioner had filed the suit for permanent injunction impleading respondent No.1 as the sole defendant. The prayer in the suit is for restraining the defendant from dispossessing the plaintiff from the restaurant in dispute illegally and forcibly and from interfering in the smooth running of the restaurant illegally and forcibly. The defendant-respondent No.1 has filed a written statement specifically raising preliminary objections to the effect that the plaintiff-petitioner was neither the owner nor a tenant of the suit property and that the actual owner of the

suit property is Smt. Meenakshi (respondent No.2) and further that the suit was bad for mis-joinder and non-joinder of necessary parties. Smt. Meenakshi (respondent No.2) has sought to be impleaded as a party in the present suit. No doubt the plaintiff-petitioner is *Dominus litis* and can choose whom to implead as a party. However, *prima facie* it has been shown that Smt. Meenakshi (respondent No.2) is the true owner of the suit property on the basis of a registered sale deed dated 12.04.1999 in favour of her mother and a registered Will dated 01.05.2017 executed by her mother. The plaintiff-petitioner has not been able to controvert the same or show as to on what basis he is in possession of the suit property. Even today, counsel appearing on behalf of the plaintiff-petitioner is unable to answer the query put by the Court as to what is the *locus standi* of the plaintiff-petitioner over the suit property apart from allegations of being in possession.

9. It is well settled that the principle regarding the addition of parties is that there must be finality to litigation and to secure that purpose the Court can add a party whose presence would be necessary to put an end to all the controversy in the litigation. In order that a person may be added as a party to a suit he/she should have a direct interest in the subject matter of the litigation whether it raised questions relating to moveable or immoveable property. In the present case Smt. Meenakshi (respondent No.2) is seemingly not a stranger to the suit property and *ex-facie* has a real direct tangible interest in the subject matter of the suit and her presence is necessary to enable the Court to effectually and completely adjudicate upon the points in controversy. Moreover, in his reply to the application filed by Smt. Meenakshi (respondent No.2) under Order 1 Rule 10 CPC the plaintiff-petitioner has not specifically denied that the shop in dispute was purchased

by Smt. Durga Devi vide registered sale deed dated 12.04.1999. He also has not specifically denied that Smt. Durga Devi executed a registered Will dated 01.05.2017 in favour of Smt. Meenakshi (respondent No.2) and that Smt. Durga Devi expired on 23.10.2018. These averments have also been made in the written statement filed by the defendant-respondent No.1 to which no replication has been filed by the plaintiff-petitioner till now. The suit is still at the stage of pleadings.

10. In view of the above, I do not find any error in the exercise of jurisdiction by the Trial Court while passing the impugned order. There is no merit in the present revision petition which is dismissed.

09.11.2021
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO