

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

221

**CR No. 322 of 2017
Date of Decision : 23.11.2022**

Dharampal

..... Petitioner

Versus

Malkiat Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

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

TRIBHUVAN DAHIYA, J.

1. This is a revision petition filed under Article 227 of the Constitution of India against the order dated 13.12.2016 (Annexure P-6) passed by the trial Court whereby the petitioner's application under Order I Rule 10 CPC for being impleaded as a party defendant to the suit has been dismissed.

2. Facts of the case in brief are, respondents no.1 and 2/plaintiffs (hereinafter referred to as 'the plaintiffs') filed a suit for permanent injunction (Annexure P-1) restraining the defendants (proforma respondents no.3 to 5 herein) from interfering in their peaceful possession and forcibly dispossessing them from the land. It has been pleaded in the suit that plaintiffs are in possession of the suit land as *gair marusi* tenants, and the land was sold by Iqbal Singh to Dhanpati and Dharampal, vide sale deed dated 13.4.2007. However, out of the two vendees, Dhanpati and Dharampal, only Dhanpati was impleaded as a defendant. On coming to know about the suit, the other vendee, Dharampal (petitioner/applicant herein), filed an application under Order I Rule 10 CPC for being impleaded as a defendant in the suit being a necessary and

proper party as he was co-owner to the extent of half share in the suit land purchased by him vide sale deed dated 13.4.2007.

3. The application was, however, rejected by the trial Court, vide order dated 13.12.2016, on the ground that it was a suit for permanent injunction and it was for the plaintiffs to see whom they wanted to implead as party defendant(s). Since the plaintiffs had not pleaded that the applicant was interfering in their possession in any manner, the latter cannot be said to be a necessary party to the suit.

4. A perusal of the plaint (Annexure P-1) shows that it is a case where plaintiffs have sought permanent injunction as *gair marusi* tenants over the suit land and protection against forcible dispossession therefrom. It is also pleaded in para no.3 of the plaint that in 2007 the suit land was sold to Dhanpati and Dharampal, vide sale deed dated 13.4.2007, who are defendants no.1 and 2 respectively. However, despite the averment the petitioner/applicant Dharampal was not impleaded as defendant no.2. Instead, his wife Bimla Devi was impleaded, who is not a co-sharer in the suit land.

5. It shows the plaintiffs themselves consider the applicant/petitioner as a necessary party and have so pleaded also. Undisputedly, the other co-sharer who purchased the land in question along with applicant/petitioner, vide the same sale deed dated 13.4.2007, has been impleaded as defendant no.1. Further, as argued by learned counsel for the petitioner, plaintiffs' tenancy over the suit land is being disputed by the applicant as well as the co-owner. There is only one stray entry in the revenue record regarding the plaintiffs being *gair marusi* tenant over the suit land which is incorrect. As a matter of fact, the petitioner/applicant along with co-sharer/defendant no.1 is owner in possession of the suit land. Therefore, it cannot be denied that the applicant/petitioner is a

necessary party to the suit and the plaintiffs either intentionally or inadvertently did not implead him as defendant.

6. In view thereof, the instant revision petition is allowed. The order passed by the trial Court dated 13.12.2016 is set aside and the applicant/petitioner is ordered to be impleaded as party defendant in the suit.

(TRIBHUVAN DAHIYA)
JUDGE

23.11.2022
Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No