IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

103

CR No.6433 of 2018(O&M)
Date of decision:10.03.2022

M/s Aman Industries

...Petitioner

Versus

Manjit Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The petitioner's application under Order 1 Rule 10 CPC with a prayer to implead the partnership firm as party-defendant in a suit for grant of decree of permanent injunction restraining the defendant from interfering into the peaceful possession, filed by the plaintiff-Manjit Singh has been dismissed by the trial Court.

The learned counsel representing the petitioner contends that a separate suit filed on 12.10.2017 by the petitioner's firm for grant of decree of permanent injunction, filed on 12.10.2017, is pending before the Court in which temporary injunction has been granted. He further contends that Manjit Singh filed a subsequent suit for grant of decree of permanent injunction while impleading Pushpinder Singh to be the only defendant. He contends that Pushpinder Singh has been impleaded as proprietor of M/s Aman Industries Company, whereas in fact, M/s Aman Industries Company is a partnership firm. He relies upon a partnership deed, executed on

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22.01.2013. He further contends that, in fact, Manjit Singh had filed the suit in collusion with Pushpinder Singh in order to obtain a collusive decree.

As per the office report, respondents have been served with the notice, however remain un-represented.

It is evident that the property in question in both the suits is common. It is also evident that the petitioner filed the suit prior in point of time in which the same Manjit Singh, who is plaintiff in the other suit, is defendant no.1. The learned trial Court has dismissed the application only on the ground that the plaintiff is dominus litis. However, the trial Court has obviously overlooked the facts as available on the record. Once the suit filed by the petitioner with respect to the same property against Manjit Singh, which was filed prior in point of time, is pending, then, while filing the subsequent suit with regard to the same property, Manjit Singh ought to have impleaded the petitioner's firm as a party-defendant, particularly when it is being alleged that Manjit Singh and Pushpinder Singh have colluded.

Therefore, the petitioner is a necessary as a well as proper party in the suit. Hence, the revision petition is allowed. The order under challenge dated 31.08.2018, is set aside.

All the pending miscellaneous applications, if any, are also disposed of.

March 10, 2022 **(ANIL KSHETARPAL)**
nt **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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