

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR- 6434 of 2018 (O&M)
Date of decision: 16.11.2022

Ram Kishan

..Petitioner

Versus

Raj Kumar Jain and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S.Khurana, Advocate, for the petitioner.
Mr. Abhishek Yadav, Advocate, for respondent no.1.

ANIL KSHETARPAL, J(Oral)

The petitioner's application under Order 1 Rule 10 CPC in a pending suit for the grant of decree of declaration with a consequential relief of permanent injunction has been dismissed by the trial court. It has come on record that the petitioner has already filed a separate suit against respondent no.1 for the decree of possession. The dispute is with regard to a place where the water is dispensed free of cost. In local language, it is called a 'Piau'.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioner submits that the suit is collusive and the sale deeds executed by the alleged owners shall be set aside. He submits that the petitioner claims that the property is dedicated to the public cause, therefore, it could not be sold. It has been further asserted that the respondents have stopped serving the public, therefore, the property is required to revert back to the petitioner, who is successor in interest of the owners.

On the other hand, the learned counsel representing the respondent No.1 submits that since the petitioner has filed a separate suit, the findings, if any, in the judgment which may be passed in this suit shall not be binding on the petitioner in an independent suit, which is pending. He further submits that the respondents will not rely upon the judgment, if any passed in this suit, in the suit filed by the petitioner.

In view of the stand taken by the learned counsel representing respondent no.1, the petitioner in inter-se suit between the respondents is neither proper nor necessary party.

Hence, no ground to interfere is made out.

However, the respondents shall remain bound by the stand taken.

Disposed of accordingly.

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

November 16, 2022

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(ANIL KSHETARPAL)
JUDGE

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