

S. No.201

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

CR No.6760 of 2018 (O&M)

Date of Decision:15.11.2022

Jagtar Singh

.....Petitioner

Vs.

Surinder Singh and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. D.K. Parjapati, Advocate for the petitioner.

Mr. Fateh Saini, Advocate for respondent No.1.

DEEPAK GUPTA, J.

This revision is against order dated 05.09.2018, whereby learned Civil Judge (Jr. Divn.) has dismissed the application under Order 1 Rule 10 CPC moved by petitioner- Jagtar Singh to implead him as a party in civil suit No.HRAM02-001590-2017.

2. As per the counsel of the petitioner, on the complaints made by the petitioner to the various authorities, inquiry was conducted against respondent No.1 – Surinder Singh, an ex-Sarpanch, by BDPO under the supervision of SDM, Ambala. Respondent No.1 was found guilty. Letters were issued for recovery of ₹1,83,046.56/- to the said respondent No.1. In order to avoid the same, respondent No.1 filed a suit for declaration and permanent injunction against respondents No.2 to 4 (State of Haryana through Collector, Sub Divisional Officer (Civil) and BDPO respectively), without impleading the petitioner as necessary party. Said official respondents filed the reply in collusion with respondent No.1, which is not satisfactory. On coming to know the said fact, application under Order 1 Rule 10 CPC was moved by the petitioner to implead him as a party but the

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same has been rejected by the learned Civil Judge (Jr Divn.), Ambala.

3. It is contended that the suit filed by respondent No.1 is not maintainable in view of Section 53(3) of the Haryana Panchayati Raj Act, 1994. Even the Municipal Corporation has not been impleaded as a party, which can defend the case on the basis of record. Thus, presence of the petitioner is necessary to assist the trial Court properly.

4. Revision has been opposed.

5. Heard.

6. Taking the contention of the petitioner on its face value that it is on his complaints that the recovery notice was issued by the BDPO against the respondent No.1, as a result whereof, the suit has been filed by respondent No.1 challenging that recovery notice. Respondent No.1 – plaintiff is seeking relief only against respondents No.2 to 4. No relief has been claimed against the present petitioner. Simply because the petitioner had made the complaints resulting into an inquiry, as contended by him, does not give him the legal right to be impleaded as a party.

7. As a normal rule, the plaintiff is a *dominus litus* and cannot be forced to join a third party. However, Order 1 Rule 10 CPC enables the Court to add any person as party at any stage of the proceedings, if the presence of such person before the Court is necessary in order to enable the Court to effectively and completely adjudicate upon and settle all questions involved in the suit. Avoidance of multiplicity of proceedings is also one of the objects of the provision.

8. In the present case, it has rightly been observed by the trial Court that the issue agitated before the Court is regarding the legality of the

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recovery notice issued to respondent No.1. Presence of the petitioner is not necessary for that purpose.

9. The contention of the petitioner that respondents No.2 to 4 are colluding with respondent No.1; or that they may not properly defend the case, is based upon assumption and conjectures. Simply because of this apprehension in the mind of the petitioner, he cannot be impleaded as a party. Perusal of the written statement filed on behalf of respondents No.2 to 4 before the trial Court reveals that they have already taken objection regarding the maintainability of the suit for not availing the remedy available under the Haryana Panchayati Raj Act, 1994.

10. In view of the above, no illegality is found in the impugned order dated 05.09.2018.

11. Dismissed.

November 15, 2022
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No