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

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CR-8424-2015 (O&M)

Date of Decision : 29.08.2022

Gurmail Singh and Others

....Petitioners

VERSUS

Sukhdev Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vikas Bali, Advocate for the petitioners.

Mr. J.S. Brar, Advocate for respondent Nos.1 to 4.

None for respondent No.6

ALKA SARIN, J. (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India impugning order dated 28.10.2015 whereby the application filed under Order 1 Rule 10 CPC has been dismissed.

The brief facts relevant to the present lis are that the plaintiff-respondents herein filed a suit in a representative capacity for declaration to the following effect :

“(a) that Gurdwara Sahib Chevian Patshahi is the owner in possession of Land bearing khasra Nos.16//16/2(5-12)-17/1(2-16)-23/(7-5)-23/2(0-13)-24(8-0)-25(8-0)-33//3(8-0)-5(8-0)-6/1(4-10)-8/1(2-16)-88//21/1(5-12)-22/1(4-12)-99//1/3(2-12)-2/1(3-8)-8/1(3-2)-8/3(0-18)-26(0-11)-131//10/1(6-0)-132//4(6-0)-5/1(5-3)-6/2(4-6)-7/1-(4-16)-177(6-10) and

(b) 13/63 share out of land bearing khasra nos.99//43(0-10)-7/1(1-14)-7/2(0-19) situated in the estate of village Jhandiana Garbi, Tehsil and District Moga as entered in the Jamabandi for the 2002-03.

AND the alleged lease deed executed by Gurdwara Prabandhak Committee through its President in favour of defendant Nos.1 and 2 and the alleged exchange affected by mutation No.8184 between defendant No.3 are illegal, unjust and wrong and Gurdwara Sahib Chevien Patshahi is entitled to this petition of the possession of the land in suit from the defendant Nos.1, 2 and 3.”

After a period of about 02 years when the case was fixed for evidence of the defendant, an application was filed by the petitioners herein for being impleaded as defendants being necessary parties. In the application it was stated that the applicants are Sikhs by religion and followers of Guru Granth Sahib and that more than 5000 people including the plaintiffs were residing at village Jhandiana Garbi, District Moga and that the plaintiffs have furnished a list of 121 persons dishonestly. It was further averred in the application that the applicants have come to know that the plaintiffs were trying to compromise the matter with the defendants for their own benefits and hence it had become necessary for the applicants to be impleaded as defendants. The said application was contested and eventually came to be dismissed vide impugned order dated 28.10.2015.

Learned counsel for the petitioners has contended that the petitioners had come to know that the plaintiffs were going to abandon their

claim and hence it was necessary for them to be impleaded as a party. Though it has been argued by the learned counsel for the petitioners that the petitioners wanted to be impleaded as plaintiffs, however the record is to the contrary. It is pertinent to note that no application at any point of time was filed to correct the fact that the petitioners wanted to be impleaded as plaintiffs in the suit and not as defendants. Learned counsel would further contend that since the plaintiffs were going to abandon the claim and the petitioners were also the residents and the suit was filed in a representative capacity, hence their rights would be adversely effected if the plaintiffs abandoned the claim and entered into a compromise with the defendants for their own benefit.

Per contra, learned counsel for the plaintiffs has categorically stated that no such compromise has been entered into. In any case, Order 1 Rule 8(4) CPC takes care of any such situation. Order 1 Rule 8(4) CPC provides that no part of the claim in any suit shall be abandoned, no such suit shall be withdrawn unless the Court has given, at the plaintiffs expense, notice to all persons so interested, in the manner specified in Sub-rule 2.

Heard.

In the present case the suit has been filed in a representative capacity. Learned counsel for the plaintiffs has made a categoric statement that the suit is being contested by the plaintiffs and that it was only on the basis of hearsay that the suit was being compromised that the application was filed by the petitioners. Further, the CPC specifically provides a safeguard in such like matters. Order 1 Rule 8(4) CPC reads as under :

“4. No part of the claim in any such suit shall be abandoned under sub-rule (1), and no such suit shall be

withdrawn under sub-rule (3), of rule 1 of Order XXIII, and no agreement, compromise or satisfaction shall be recorded in any such suit under rule 3 of that Order, unless the Court has given, at the plaintiff's expense, notice to all persons so interested in the manner specified in sub-rule (2).”

Learned counsel for the petitioners has been unable to satisfy the Court as to how by being impleaded as a defendant the interest of the residents would be safe-guarded except for the argument that it has wrongly been stated that the petitioners wanted to be impleaded as defendants. Even in the present revision petition it has repeatedly been stated that the petitioners had moved an application for being impleaded as necessary parties i.e. the defendants. That being so, the explanation as given by the learned counsel for the petitioners cannot be accepted. Further, any apprehension in the minds of the petitioners is well taken care of by the provisions of Order 1 Rule 8(4) CPC. In case the plaintiffs at any point of time wish to abandon the claim or to compromise the suit, it is incumbent on the Court to give notice at the expenses of the plaintiffs to all persons interested in the manner as specified in Order 1 Rule 8 (2) CPC.

In view of the above, I do not find any illegality or infirmity in the impugned order passed by the Trial Court. Accordingly, the present revision petition being devoid of any merit is dismissed. Pending applications, if any, also stand disposed off.

August 29, 2022
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(ALKA SARIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No