

\IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR 1266/2022

Date of decision:6.12.2022

Gurdev Kaur @ Gurvinder Kaur

.....Petitioner.

Vs.

State of Punjab and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Ruhani Chadha, Advocate for the petitioner.
 Mr.Rohit Bansal, Sr. DAG Punjab for official respondents.
 Mr.Aditya Dassan, Advocate for respondents 5 and 6.

Nidhi Gupta,J.

Prayer in this revision petition is for setting aside the order dated 16.11.2021 (Annexure P-5) passed by CJ(JD)-cum-JMIC, Jalandhar accepting the application of respondents 5 and 6 herein filed by them under Order 1 Rule 10 CPC for impleading them as defendants in the suit filed by the petitioner.

Brief facts are that the petitioner filed a suit for declaration to the effect that she was lawful owner in possession of the land measuring 16

kanals (hereinafter referred to as 'the suit land'), as per entries contained in the copy of Jamabandi for the year 2010-2011 on the basis of judgment and decree passed in Civil Suit titled 'Pakhar Singh v Pritam Singh-Amar Kaur' bearing Civil Suit No. 275/1991 decided vide judgment and decree dated 31.10.2006; and further to the effect that the name of the plaintiff is required to be entered in column no.4 of the Jamabandi on the basis of said judgment and decree dated 31.10.2006.

It is submitted by the learned counsel for the petitioner that the respondents 5 and 6 have no cause of action for filing the application for impleadment and that the petitioner/plaintiff is dominus-litus; master of her suit and therefore, she cannot be forced to implead the applicants as respondents. It is further submitted that the learned trial Court did not consider the fact that the present suit is a suit for declaration and therefore, respondents 5 and 6 are not necessary parties on the basis of title as the petitioner has sought her name to be incorporated in the column of possession which fact is undisputed. It is accordingly submitted that the learned trial court was in error in allowing the application under Order 1 Rule 10 read with Section 151 CPC for impleading the respondent nos. 5 and 6 as defendants in the above suit.

Per contra, learned counsel for the added respondents 5 and 6 submits that genus of the present suit dates back to the Civil Suit for declaration and permanent injunction dated 18.4.1988 filed by Pritam Singh, father of the petitioner/plaintiff (since deceased) against one Pakhar Singh and others. In the said main Civil Suit no. 195/2006 dated 18.4.1988 filed by Pritam Singh against Pakhar Singh and others, the plaintiff Pritam Singh had sought four reliefs - of possession, recovery of mesne profits, declaration, and

permanent injunction. A perusal of the decree sheet of the said suit shows that vide judgment and decree dated 31.10.2006 the said suit was dismissed with regard to reliefs of possession, recovery of mesne profits and declaration, and was only partly allowed for permanent injunction - to the effect that defendants therein were restrained from dis-possessing the plaintiff - Pritam Singh in any manner *except in due course of law*. It is submitted that therefore, the civil suit of the father of the present petitioner/plaintiff was decreed only with regards to permanent injunction, and no ownership right therefore, now accrues to the present petitioner therefrom. It is further submitted that the said consolidated Civil Suit No. 275 of 1991 on basis of which the petitioner is claiming ownership was in fact, dismissed vide judgment and decree dated 31.10.2006 (Annexure P-6). It is further submitted that respondents 5 and 6 are bona fide purchasers of the suit land along with one Kulwant Singh, and are co-sharers in the land in question. It is stated that by way of present suit petitioner wants to be declared as owner of the suit land and her name to be entered in the Jamabandi. In this regard, her averments in para 3 of the plaint are clearly misleading as it has been averred therein that “*vide judgment and decree dated 31.10.2006, whereby Pritam Singh was declared to be owner in possession of the land measuring 16 kanals by way of his adverse possession*”. It is submitted that however, as is evident from judgment and decree dated 31.10.2006 (Annexure P-6), it has already been demonstrated above that the Civil Suit No. 275 of 1991 on basis of which the petitioner is claiming ownership was dismissed vide judgment and decree dated 31.10.2006; and the Civil Suit no.195/06 of Pritam Singh was dismissed with regard to relief of possession, recovery of mesne profits and declaration and was partly decreed only for injunction.

I find merit in the arguments advanced on behalf of respondents 5 and 6. Learned counsel for the petitioner is unable to controvert the submissions made on behalf of respondents 5 and 6. Perusal of the record very clearly shows that it is not in dispute that the Civil Suit No. 275 of 1991 on basis of which the petitioner is claiming ownership was dismissed vide judgment and decree dated 31.10.2006; and suit of father of plaintiff was only partly decreed in regard to the suit land vide judgment and decree dated 31.10.2006. It has further come on record that respondents 5 and 6 along with one Kulwant Singh are co-sharers of the suit land on the basis of registered sale deed and mutation has also been sanctioned in their favour. Said Kulwant Singh had earlier filed an application under Order 1 Rule 10 CPC which was allowed and he has already been arrayed as defendant no.4 in the present suit. It is further clear from the record that the petitioner is claiming ownership on the basis of adverse possession and unlike respondents 5 and 6 she does not have any title or document in her name. Perusal of the impugned order shows that respondents 5 and 6 have duly placed on record sale deed executed in their favour and a copy of the Jamabandi for the year 2009-2010 which depicts them to be joint owners in the suit property. As such it is clear that respondents 5 and 6 are necessary parties to the dispute as their interests are involved in the present suit. Accordingly, for the reasons stated hereinabove, I find no error in the impugned order, and the present revision petition is hereby dismissed.

06.12.2022
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No