

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

CR-1257-2021
Decided on : 22.04.2022

Simarjit Kaur

..... Petitioner

Versus

Jeet Singh and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. R.S.Dhaliwal, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed by defendant No.1-Simarjit Kaur under Article 227 of the Constitution of India assailing the order dated 08.01.2020 (Annexure P-5) passed by trial Court whereby it allowed the application of the plaintiff under Order 1 Rule 10 CPC for impleading Jatinder Singh, Jujhar Singh, Jagtar Singh and Jaswinder Kaur @ Jeet Kaur as defendants No.7 to 10 in the suit in question.

Respondent-plaintiff No.1 filed a suit for declaration and permanent injunction to the effect that he is owner in possession of suit land and the sale deed No.4458 dated 23.02.2011 allegedly executed by defendant No.2 – Chatin Kaur, widow of Hakam Singh (mother of the plaintiff) in favour of petitioner-defendant No.1 was illegal, null and void as she had no right or authority to do so in view of valid Will dated 19.12.2010, which was executed in favour of plaintiff No.1 by his father whereby he had been bequeathed all his property including the suit land to the respondent No.1-plaintiff.

Learned counsel for the petitioner *inter alia* contended that the learned Court below arbitrarily allowed the application under Order 1 Rule 10 CPC without appreciating that the said application had been filed with an ulterior motive so that the civil suit would linger on. It was submitted that the application had been filed at a highly belated stage i.e. when the trial was almost nearing conclusion. He further submitted that no cogent reason was forthcoming as to what prevented the respondent No.1-plaintiff to array the persons, who are now sought to be impleaded as defendants No.7 to 10 when the suit in question was instituted.

Heard learned counsel and perused the relevant material on record.

Before proceeding further, it would not be out of context to observe here that plaintiff is dominus litis.

A perusal of order 1 Rule 10(2) CPC clearly enables a Court to add necessary or proper party at any stage so as to effectively and completely adjudicate and settle all the questions involved in the suit.

In the case in hand, the possession and ownership of the plaintiff with respect to the suit property is in dispute. The plaintiff is claiming the possession and ownership of the suit property on the basis of a Will said to have been executed by his father in his favour. Admittedly, Jatinder Singh, Jujhar Singh, Jagtar Singh and Jaswinder Kaur @ Jeet Kaur, are the legal heirs of the father of the plaintiff-respondent No.1 along with him and therefore they are not only proper but necessary party to the suit and in fact as has been rightly observed by the Court below, it would help in effective and complete adjudication of the dispute in question. This Court does not agree with the submissions made by learned counsel for the

petitioner-defendant No.1 that the addition of Jatinder Singh, Jujhar Singh, Jagtar Singh and Jaswinder Kaur @ Jeet Kaur as defendants No.7 to 10 would change the nature of the suit.

No doubt, there has been some delay in the addition of the aforementioned persons as defendants No.7 to 10, however, the delay in the application under Order 1 Rule 10 CPC having been filed to implead them as defendants No.7 to 10 would not be sufficient enough ground to dismiss the said application.

As a sequel to above, this Court does not find any ground to interfere in the impugned order by the Court below. Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

22.04.2022

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