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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.2404 of 2022 (O&M)

Date of Decision: 22.11.2022

Mandir Satnarayan, Village Toda

..... Petitioner

Versus

Jasbir Singh and others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

MANJARI NEHRU KAUL J. (Oral)

Prayer in the present petition filed under Article 227 of the Constitution of India is for setting aside the impugned order dated 23.05.2022 (Annexure P-4), passed by the Civil Judge (Senior Division), Panchkula, vide which an application moved by the petitioner-mandir under Order 1 Rule 10 for being impleaded as a party to the suit in question, was dismissed.

Learned counsel for the petitioner submits that the impugned order is contrary to the settled principles of law and has been passed without appreciating the facts of the case in their right perspective. He submits that the trial Court ignored the fact that the petitioner is a necessary party for the just and effective adjudication of the suit in question, which had been instituted by respondent No.1-plaintiff.

Learned counsel argued that petitioner-Mandir abuts the road leading to village Toda from village Kakrali. In between the Mandir and said road, neither is there any shamlat land nor abadi land of village Toda. Thus, respondent No.1-plaintiff has illegally encroached upon the land belonging to the Public Works Department (hereinafter referred to as 'PWD') by placing his 'Khoka' between the petitioner-Mandir and the main road. He still further submits that shady and undesirable persons frequent the said 'khoka' and cause a great deal of hindrance to the devotees, who visit the Mandir to pay their obeisance. Therefore, since the rights and interests of the petitioner-Mandir and its devotees are intrinsically involved in the adjudication of the suit in question, the petitioner-Mandir deserved to be impleaded as a party to the suit.

He has still further submitted that respondent No.1-plaintiff had earlier also filed a suit for permanent injunction against the Gram Panchayat of village Toda in connivance with the Sarpanch which was decreed by the Civil Court, as the then Sarpanch had admitted the possession of respondent No.1-plaintiff. He thus, submits that the petitioner has reasonable and genuine apprehension that the officials of respondents No.2 and 3-Department might yet again collude with respondent No.1-plaintiff to get an order favourable to respondent No.1-plaintiff passed thereby adversely affecting the rights and interests of the petitioner-Mandir and the devotees.

I have heard learned counsel for the parties and perused the relevant material on record.

It would be apposite to observe here that the relevant

consideration for impleading any person as a party to a suit under Order 1 Rule 10 is that in the absence of such person, the Court would be unable to adjudicate upon the question in dispute effectively and completely.

Adverting to the case in hand, respondent No.1-plaintiff has instituted a suit for declaration and permanent injunction against respondents No.2 and 3. It has not been disputed by learned counsel for the petitioner that the 'khoka' of respondent No.1-plaintiff is not situated on the land of the petitioner, rather it is on the land of respondent No.3. Still further respondent No.1-plaintiff has admittedly not claimed any relief against the petitioner. Respondent No.1-plaintiff being *dominus litis* cannot be forced to litigate against a particular person/body. Merely because the petitioner-Mandir is apprehensive that the officials of respondents No.2 and 3-Department might collude with respondent No.1-plaintiff, as a result of which, they would not effectively contest the suit, does not make the petitioner-Mandir a necessary or proper party to the suit in question. Furthermore, the petitioner-Mandir can always avail of its remedies as may be available under the relevant provisions of law for redressal of its grievance *qua* the lewd remarks allegedly passed by some undesirable people, who visit the 'khoka' of respondent No.1-plaintiff.

As a sequel to the above, this Court is not inclined to invoke its revisional jurisdiction under Article 227 of the Constitution of India. The petition being devoid of merit is dismissed.

22.11.2022

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Whether speaking/reasoned:

Whether reportable:

(MANJARI NEHRU KAUL)

JUDGE

Yes/No

Yes/No