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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2562-2022 (O&M)

Date of Decision:25.08.2022

Narinder Kumar

.. Petitioner

Vs.

Parveen Kumar

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Hitesh Ghai, Advocate for the petitioner.

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Manoj Bajaj, J. (Oral)

Petitioner (plaintiff) has filed this revision petition to challenge the order dated 02.04.2022 (Annexure P-11), whereby his application under Order I Rule 10 CPC for impleading State Bank of India, Khanna, PSPCL, Khanna and Municipal Committee, Khanna as defendants No.2 to 4 in Civil Suit No.472-2018 for permanent injunction brought against defendant/respondent, was dismissed.

Briefly, the facts of the case are that the plaintiff filed a suit for permanent injunction against defendant and pleaded that the suit property was initially owned by Kapoor Chand, father of the parties, who had executed a Will dated 05.02.2007 in favour of the plaintiff and defendant (adopted son of Kapoor Chand) and by virtue of the same, the property in question devolved upon them. The other properties owned by Kapoor Chand were also dealt with by the testator in the Will, who had died on 28.11.2016. The defendant being greedy wanted to dispossess the plaintiff and his family members from the house in question and claimed himself to

be the exclusive owner on the strength of a transfer deed dated 10.03.2010

and in this background, the plaintiff was left with no opinion, but to institute the suit and prayed for a decree for permanent injunction restraining the defendant and his agents, accomplices etc. from interfering or disturbing the peaceful and exclusive possession of the portion of the house shown in red colour in the site plan as well as common passage (yellow portion) and also disconnecting the electricity, water supply and sewerage connection etc.

The suit is being contested by the respondent/defendant, who filed a written statement, wherein various preliminary objections have been raised. On merits, it is pleaded that the defendant was born to Smt. Tripta Devi and Kishori Lal (brother of Kapoor Chand) and since Kapoor Chand was having no child after his marriage with Satya Devi in 1959, the defendant was validly adopted when he was two years old. According to the defendant, Kapoor Chand entered into the second marriage with Asha Rani on 16.07.1975, during the life time of his first wife (Satya Devi) and out of this marriage, the plaintiff was born on 02.02.1976. As per written statement, Kapoor Chand in his life time had executed registered transfer deed dated 10.03.2010 in favour of defendant and since then, he is the exclusive owner of the house in question, whereas the plaintiff has no right, title or interest. During the life time of Kapoor Chand, plaintiff was allowed to occupy first floor of the house and later on, the defendant allowed him to occupy the first floor as licensee, but as he has filed the suit, the said licence is cancelled. The defendant is occupying the ground floor of the house in question. While denying the other averments in the plaint, it was prayed that the suit be dismissed.

During the pendency of the suit, the plaintiff moved an application under Order I Rule 10 CPC seeking impleadment of State Bank

of India, Khanna through its manager, PSPCL, Khanna, Department of Electricity through its SDO and Municipal Committee, Khanna through Executive Officer as defendants No.2 to 4. According to the plaintiff, these proposed defendant Nos.2 to 4 are necessary parties to the suit for just decision. The application was contested by filing a reply, however, Civil Judge (Jr. Divn.), Khanna dismissed the same vide impugned order dated 02.04.2022.

Learned counsel for the petitioner has argued that though a separate suit filed by the plaintiff to challenge the transfer deed dated 10.03.2010 executed by his father Kapoor Chand in favour of defendant is also pending, but during the pendency of this suit for injunction, it transpired that the defendant had obtained a loan of Rs.50 lacs from State Bank of India, Khanna by mortgaging the suit property on the basis of the said transfer deed dated 10.03.2010 and since the bank is initiating steps to recover the debt under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, therefore, the bank is a necessary party. He submits that in case the bank succeeds in dispossessing the petitioner/plaintiff, his suit would become infructuous and the trial Court has wrongly dismissed his application. He submits that the impugned order dated 02.04.2022 deserves to be set aside and the application filed by the plaintiff/petitioner be allowed.

During the hearing, no argument was raised by the learned counsel to make out a ground for impleadment of other two proposed defendants, namely, PSPCL, Khanna and Municipal Committee, Khanna.

After hearing the learned counsel and considering the above background, this Court finds that the suit originally filed by plaintiff against

defendant is based upon alleged threat of dispossession and the same is pending for the last four years. The alleged cause of action attributed to the State Bank of India, Khanna is based upon the bank's statutory right to recover debt from the borrower in terms of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the said proceedings cannot be construed as relevant to the issues raised in the claim made against the original defendant. Since, the plaintiff apprehended forcible dispossession at the hands of his brother (defendant), therefore, prayed for a decree for permanent injunction and the merits of the said claim are yet to be adjudicated upon, but the impleadment of State Bank of India, Khanna in the present suit does not seem to be necessary or proper, much less to adjudicate the issues.

A perusal of the impugned order shows that the trial Court has carefully examined the facts, circumstances as well as the averments contained in the application under Order I Rule 10 CPC and has rightly refused to exercise the jurisdiction.

Thus, this Court has no hesitation in holding that the impugned order does not suffer from any illegality or impropriety.

The revision petition fails and is dismissed.

25.08.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No