

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

CR-4401-2019
Decided on : 01.04.2022

Gurbaksh Kaur @ Gurbax Kaur and others

..... Petitioners

Versus

Minakshi and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. K.S.Dhillon, Advocate
 for the petitioners.

 Mr. Munish Raj Chaudhary, Advocate
 for the respondents.

Manjari Nehru Kaul, J.(Oral)

The petitioners are impugning the order dated 03.04.2019 (Annexure P-4) passed by Civil Judge (Jr. Divn.) Jalandhar whereby application under Order 1 Rule 10 CPC for impleading Mohinder Singh as defendant was allowed in the Civil Suit bearing No.1474/2017.

Learned counsel for the petitioners *inter alia* contends that the contesting respondents-plaintiffs has filed a suit for declaration and permanent injunction against the petitioners-defendants. He submits that when the suit was at the stage of respondents-plaintiffs' evidence, an application under Order 1 Rule 10 CPC was moved by the contesting respondents-plaintiffs for impleading Mohinder Singh as defendant being a necessary party. He further submits that the trial Court erred in allowing the impleadment of Mohinder Singh as he is neither a necessary nor a proper party. It has also been submitted by learned counsel that no relief

whatsoever is claimed against Mohinder Singh.

Per contra, learned counsel for the contesting respondents-plaintiffs submits that Mohinder Singh is a necessary party without which the suit cannot be properly adjudicated.

Heard learned counsel and perused the impugned order and material available on record.

A perusal of plaint (Annexure P-1) reveals that no relief is claimed against Mohinder Singh therein. Still further, the contesting respondents neither sought any consequential amendment in the plaint while moving the application under Order 1 Rule 10 CPC nor any application under Order 6 Rule 17 was moved in that regard. Therefore, this Court is of the opinion that in the absence of any relief claimed against Mohinder Singh, he cannot be said to be a necessary party.

Accordingly, the present petition stands allowed and the order dated 03.04.2019 passed by the Civil Judge (Jr. Divn.) Jalandhar for impleading Mohinder Singh as defendant is set aside.

(MANJARI NEHRU KAUL)
JUDGE

01.04.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No