

S.No.110

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

CR No.5193 of 2022

Date of Decision:22.11.2022

Ranvir Singh

.....Petitioner

Vs.

Jyoti Arora and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Shalender Mohan, Advocate for the petitioner.

DEEPAK GUPTA, J.

Civil Suit titled Jyoti Arora and others V. State of Haryana

(CNR No.HRJNA1-000040-2017) is pending before the learned Civil Judge

(Junior Division), Narwana. The petitioner – Ranvir Singh is not a party to

that suit. He moved an application under Order 1 Rule 10 (2) read with

Section 151 of the Code of Civil Procedure for his impleadment but said

application has been dismissed by way of an order dated 19.08.2021

(Annexure P.4), which has been assailed by him by way of this revision.

2. On perusal of the paper book, it is revealed that respondents

No.1 and 2 – Jyoti Arora and Krishan Arora are owners of two plots

measuring 444 sq. yards in Chhotu Ram Colony, Narwana, District Jind,

Haryana. Petitioner – Ranvir Singh is also resident of the same colony and

CR No.5193 of 2022

his house is stated to be adjacent to the plots of respondents No.1 and 2. Site plan for raising construction of a residential building on their plots moved by respondents No.1 and 2 has been sanctioned by respondent No.4 – Municipal Council, Narwana. It is alleged that instead of raising construction of the residential building, said respondents No.1 and 2 started raising construction of commercial/ school building on their plot. On various complaints made by the petitioner to the authorities, respondent No.4 served notices dated 27.12.2016 and 24.01.2017 to respondents No.1 and 2 for demolition under Sections 208 and 325 of the Haryana Municipal Act, 1973. As nothing was done by respondents No.1 and 2 despite receipt of these notices, respondent No.4 filed civil suit for demolition of the illegal construction carried out on their property by respondents No.1 and 2. On the other hand, respondents No.1 and 2 filed a counter suit (bearing CS No.39 of 2017). Both suits were consolidated by the Court on 10.01.2018.

3. Petitioner filed an independent suit bearing No.17 of 2018 (CNR N: HRJNA1-000091-2018), wherein he moved an application under Order 39 Rules 1 and 2 CPC, which was dismissed by learned Additional Civil Judge (Senior Division) Narwana vide order dated 26.03.2018 by observing that he could move an application to implead him as a party before the Court, where two civil suits (referred to above) were pending. The suit of the petitioner was ultimately

dismissed vide judgment dated 15.12.2021 (Annexure P.2).

4. Petitioner moved an application under Order 1 Rule 10 CPC to implead him as a party in Civil Suit No.39 of 2017 titled Jyoti Arora and another v. Municipal Council, but that has been dismissed by way of the impugned order dated 19.08.2021.

5. It is submitted that it is on the complaints made by petitioner that notices under the provisions of Haryana Municipal Act, 1973 were served upon respondents No.1 and 2. It is the petitioner, who is the affected person, as his property is adjacent to the plots of respondents No.1 and 2, on which they have raised school building. In the order dated 26.03.2018, on application under Order 39 Rules 1 and 2 CPC passed in the independent suit filed by the petitioner, it was observed that he could move an application under Order 1 Rule 10 CPC. However, without advertent to these facts, learned trial Court has dismissed his application under Order 1 Rule 10 CPC, though his presence is very much necessary for disposal of the suit.

6. After considering submissions of learned counsel for the petitioner and perusing the paper book, I find no merit in the present revision.

7. As a normal rule, the plaintiff is a *dominus litus* and cannot be forced to join a third party. However, Order 1 Rule 10 CPC enables the Court to add any person as party at any stage of the proceedings, if the presence of such person

before the Court is necessary in order to enable the Court to effectively and completely adjudicate upon and settle all questions involved in the suit but, avoidance of multiplicity of proceedings is also one of the objects of the provision.

8. In the present case, taking the contention of the petitioner as such that it is after complaints made by him that notices were served by the Municipal Council upon respondents No.1 and 2 for demolition but it is conceded by the petitioner that an independent suit filed by him bearing No.17 of 2018, in which respondents No.1 and 2 as well as Municipal Council, Narwana were impleaded as defendants, has already been dismissed on 15.12.2021. With the dismissal of main suit, any observation made in the order dated 26.03.2018 on the application under Order 39 Rules 1 and 2 CPC, loses significance. There is nothing to suggest that against the dismissal of his suit on 15.12.2021, the petitioner filed any appeal.

9. In the aforesaid circumstances, when petitioner has already agitated his cause by way of an independent suit by impleading respondents No.1 and 2 as well as the Municipal Council and his suit has since been dismissed, he cannot be allowed to be impleaded as party in the pending litigation between respondents No.1 and 2 on the one hand and the Municipal Council and the State on the other hand. As such, no illegality can be found in the impugned order.

CR No.5193 of 2022

10. In view of the above, I find no merit in the revision.
11. Dismissed.

November 22, 2022	(DEEPAK GUPTA)
renu	JUDGE
Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No