

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

CR-6072-2022 (O&M)

Date of decision: 21.12.2022

Rajender Singh

...Petitioner

Versus

HUDA Faridabad and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Kunal Dawar, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

This revision petition has been filed by petitioner Rajender Singh, who is plaintiff in the civil suit for grant of permanent injunction filed by him against HUDA Faridabad, being aggrieved by the order passed by the trial Court of Civil Judge (Jr. Divn.) Faridabad, allowing an application under Order 1 Rule 10 CPC filed by Resident Welfare Association, Urban Estate, Sector 21D, Faridabad (for short 'RWA').

Briefly stated facts of the case are that plaintiff Rajender Singh had filed the civil suit in question against HUDA Faridabad, seeking a decree for permanent injunction restraining the defendant to raise a wall and to obstruct the plaintiff from use of the road. According to the plaintiff, he has got a house bearing No.432-F, SGM Nagar, Faridabad and there is no boundary separating Sector 21-D

from SGM Nagar, Faridabad at the point where house of the plaintiff is situated. On one side of house of the plaintiff, there is a road passing through Sector 21-D, which was not part of the said sector and as it came into existence much later. The plaintiff has been using the said road without causing inconvenience to anybody. Except the plaintiff, no other person from SGM Nagar, Faridabad has access to the road. Of the late, some persons from HUDA threatened to construct a wall on side of the house so as to block the access of plaintiff to the road, which he has been using for the last more than 20 years.

On getting notice of the suit, defendant appeared. During the course of proceedings, RWA appeared and filed an application under Order 1 Rule 10 CPC for being impleaded as a defendant, submitting that the plaintiff has demolished the wall of Sector 21-D, Faridabad for ingress and egress illegally despite having no right of passage and has mischievously obtained stay order from the Court. On coming to know about pendency of the suit when a contempt notice was served to it, then RWA approached the Court.

The application was opposed on behalf of the plaintiff, stating that the application had been filed with a mala fide intention to delay the proceedings.

After hearing both the parties, the trial Court allowed the application. The operative part of the order contained in para Nos.5 and 6 is being reproduced for ready reference:-

“5. Considering the arguments advanced by both the

parties, after having perused the case file, this court is of the considered view that the question as to whether the plaintiff is vested with any right to use the disputed passage or not and whether the interests of the residents of Sector 21D, Faridabad are being affected, will be decided only upon merits.

6. At present, since there is an averment in the application that the interest of residents of the said area is being affected and a question of demolition of wall in Sector 21D, Faridabad by the plaintiff is involved, it would be justified in the interests of justice, to implead RWA as a party to the suit for proper representation of the interests of the residents of the said area. Moreover, it is one of the contentions of the applicant that they were served upon with contempt notice of the violation of the stay order, there might be a possibility that the interests of the residents may actually be impaired. Therefore, for proper adjudication of the case, the present application may be allowed as RWA is engaged in welfare of the residents. There would be no prejudice caused to the plaintiff or any party if the present application is allowed and they are made a party to the present suit as one of the defendants for proper adjudication of the case. As such, present application is allowed. Now to come upon 13.12.2021 for filing amended title.”

I have heard learned counsel for the revision petitioner besides going through the record.

No doubt, the plaintiff is master of his suit and no person can be impleaded as a party against his wishes but it is no so if the Court finds the presence of some other person not impleaded as a party, whose presence before the Court may be found necessary in order to enable the Court to effectually and completely adjudicated upon and settle all the

questions involved in the suit. Here the trial Court in the impugned order has exercised the discretion in a proper and judicious manner without there being any element of arbitrariness. The plaintiff is complaining against RWA for committing disobedience of the stay order granted by the Court, if it is so, then RWA has a right to present its view point. The presence of RWA before the Court would certainly help the Court in properly, effectively and finally adjudicating upon the controversy between the parties. Therefore, I do not see any reason to interfere with the impugned order by way of exercising revisional jurisdiction. The judgments referred to by learned counsel for the revision petitioner i.e **Sudhamayee Pattnaik & Ors. Vs. Bibhu Prasad Sahoo & Ors.**, 2022 AIR (Supreme Court) 4304 and **Gurmit Singh Bhatia Vs. Kiran Kant Robinson & Ors.**, 2019(3) RCR (Civil) 809 are not applicable due to different facts, circumstances and the context in which such observations had been made.

The revision petition being without any merit stands dismissed accordingly.

21.12.2022

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No