

CR-2848 of 2017

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

CR-2848 of 2017
Reserved on: 02.08.2023
Pronounced on: 21.08.2023

Seema and others

.....Petitioners

Versus

Ashok Kumar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. Khushbir K. Bhullar, Advocate,
for the petitioners.

Mr. V.K. Sandhir, Advocate,
for the respondents.

NAMIT KUMAR, J.

1. Instant revision petition has been preferred by the plaintiff-petitioners under Article 227 of the Constitution of India read with Section 151 CPC impugning the order dated 16.02.2017 passed by the Court of learned Civil Judge (Junior Division), Amritsar, whereby application filed by them under Order 1 Rule 10 CPC for impleading necessary parties, has been dismissed.

2. Brief facts, leading to the filing of the present revision petition are that plaintiff-petitioner filed a suit for declaration to the effect that they are only legal heirs of deceased Anil Kumar son of Lal Chand (petitioner No.1 widow and petitioners No.2 and 3 minor daughters of deceased Anil Kumar) and have inherited the movable and

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immovable estate of the deceased in equal shares including residential house No.674 situated at Bengali Wali Gali, Gala Mala Chowk, Majitha Road, Amritsar, with consequential relief of permanent injunction restraining the defendant-respondents i.e. brother and father of deceased Anil Kumar, their agents, associates and representatives from selling, alienating or leasing out the house in dispute to any other person. During the pendency of the suit, petitioners filed application under Order 1 Rule 10 CPC for impleading daughters of deceased Tari Devi wife of respondent No.2-Lal Chand in the array of defendants, which has been dismissed by the trial Court vide impugned order. Hence, this revision petition.

3. Learned counsel for the petitioner contended that the trial Court failed to appreciate that once the defendants themselves raised one of the preliminary objections that suit was bad for non-joinder of necessary parties, it was not open to the defendants to oppose the application moved by the plaintiffs under Order 1 Rule 10 CPC for impleading the daughters of deceased Tara Devi wife of Lal Chand as party-defendants to the suit. So far as alleged belated stage of the suit is concerned, learned counsel, contended that petitioner No.1 being widow lady and petitioners No.2 and 3 being her minor children, were not well-acquainted with the niceties of law and at the most it was negligence on the part of their counsel before the trial court, for which petitioners should not be made to suffer and the impugned order is liable to be set aside and application of the petitioner may be allowed.

4. Per contra, learned counsel for the respondent opposed the submissions made by learned counsel for the petitioner and submitted that the impugned order is perfectly legal and valid. He further submitted that application for impleadment was filed by the petitioner at belated stage as the arguments by the plaintiff-petitioners have already been concluded and defendant-respondents have also advanced their partial arguments. He further submitted that no relief has been sought against them in the civil suit. He further submitted that allowing the application at this stage would lead to *de novo* trial.

5. I have heard learned counsel for the parties and perused the record.

6. The trial Court has rightly dismissed the application filed by the petitioner to implead the parties to the suit as the same was filed to fill up the lacuna of the case at belated stage when plaintiff-petitioners had already advanced their arguments and defendant-respondents' arguments were going on. No reasons have been given by the petitioners to file the application at such a belated stage. It is rightly observed by the trial Court that application could have been filed at the time of filing the replication as objection that suit was bad for non-joinder of necessary parties was raised by the defendant-respondents in the written statement. Permission to implead the parties at this stage would amount to *de novo* trial. Moreover, no relief has been sought against the daughters of deceased Tara Devi in the civil suit. Under these circumstances, I am of the considered view that the

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plaintiffs have filed the present application merely to prolong the case because the case was at final stage.

7. No illegality or infirmity could be pointed out by the counsel for the petitioners in the impugned order so as to call for interference by this Court. Finding no merit in the revision petition, the same is consequently dismissed.

21.08.2023
R.S.

(NAMIT KUMAR)
JUDGE

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