

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(226)

CR No. 3877 of 2017
Date of Decision : 27.02.2023

Lakhmi Chand and others

...Petitioners

Versus

Karan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Arun Kumar Singal, Advocate for the petitioners.

Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate for respondents No. 1 to 4.

Harsimran Singh Sethi J. (Oral)

The present civil revision petition has been filed challenging the order dated 06.05.2017 (wrongly mentioned as 11.05.2017) (Annexure P-6) by which, respondents No. 1 to 6 have been impleaded as respondents in the suit upon their application.

Learned counsel for the petitioners submits that the present suit was filed by the petitioners-plaintiffs to be declared as owners of the land in their possession described in the heading of the suit and from restraining the respondents-defendants from interfering in the peaceful possession of land with the petitioners-plaintiffs and also to restrain them to alienate the suit property in any manner.

During the pendency of the civil suit, an application was filed

by respondents No. 1 to 6 to be impleaded as respondents projecting that they have interest in the land in question. The said application has been allowed by the trial court by the impugned order dated 06.05.2017 (Annexure P-6), which order is under challenge in the present civil revision petition.

Learned counsel for the petitioners-plaintiffs submits that the interest in the suit property was being claimed by respondents No. 1 to 6 on the basis of a 'Will' executed by Molar in favour of Tek Ram from whom respondents No. 1 to 6 are drawing their interest in the property. Learned counsel for the petitioners-plaintiffs argues that Molar, who claimed collateral relationship with Hari Niwas and Molu and had filed a suit against Kanshi Ram and Sita Ram i.e. the predecessor-in-interest of the petitioners-plaintiffs, failed to establish the said relationship hence, the alleging of the interest in the present suit by respondents No. 1 to 6 is contrary to the findings already recorded by a competent court of law but with ignoring the said findings of the competent court of law, the application filed by respondents No. 1 to 6 has been allowed to be impleaded as respondents and that too against the wishes of the petitioners-plaintiffs.

Learned counsel for the respondents-defendants submits that whether, respondents No. 1 to 6 are able to prove their interest, will depend upon the evidence, which will come on record hence, at the threshold, they cannot be ousted to contest the claim of the petitioners-plaintiffs and the order passed by the trial court so as to implead them as respondents is perfectly valid and legal.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, even in the application filed by respondents No. 1 to 6 so as to be impleaded as respondents, they are claiming their interest in the property in question only through Molar and Molar had lost while contesting against the predecessor-in-interest of the petitioners-plaintiffs, which findings have already attained finality. Still claiming of interest in the suit property by respondents No. 1 to 6 and that too through Molar, does not arise. While passing the order, certain facts, which have been stated hereinbefore, have not been taken into consideration by the trial court so as to assess the necessity of the respondents No. 1 to 6 in the suit, while allowing the application of respondents No. 1 to 6 to be impleaded as respondents in the suit.

Even otherwise also, keeping in view the settled principle of law that no one can be impleaded as respondent so as to make the petitioners-plaintiffs to contest against a person which he does not want to, the allowing of the application by the trial court so as to implead respondents No. 1 to 6 as respondents is without appreciating the facts in the correct perspective. Keeping in view the earlier litigation qua the same property, which has already attained finality, the ground being taken by respondents No. 1 to 6 projecting their interest in the property in question is contrary to the findings recorded by the competent court of law.

Keeping in view the above, the order passed by the trial court dated 06.05.2017 (Annexure P-6) allowing the application filed by respondents No. 1 to 6 to be impleaded as respondents, cannot be sustained

keeping in view the facts and circumstances of the present case and the said order dated 06.05.2017 (Annexure P-6) is accordingly set-aside.

The present civil revision petition is allowed in above terms.

February 27, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No