

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

113

CR-1678-2023 (O&M)
Date of decision: 17.03.2023

Surender Kumar

...Petitioner(s)

Vs.

Municipal Council, Mandi Dabwali & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Paramjeet Singh Jammu, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present Revision Petition has been filed by the plaintiff seeking setting aside of order dated 02.02.2023 whereby application filed by respondent No.2 under Order 1 Rule 10 read with Section 151 CPC has been allowed, and respondent No.3 has been impleaded suo motu, by learned Additional Civil Judge (Senior Division), Dabwali.

2. It is inter alia, submitted by learned counsel for the petitioner:

a) that the petitioner had filed a Suit seeking mandatory injunction directing defendant/respondent No.1/Municipal Corporation, Mandi Dabwali, to correct ID No.WD/16/499 of the suit property, in the name of petitioner as it pertains to property owned and possessed by the petitioner falling in land comprising khasra No.606/1/3/3/8/8/3/4/2/2/2; and for permanent injunction restraining said defendant from issuing NOC pertaining to aforesaid ID in favour of any person, and also from

sanctioning any approval for raising construction thereby changing the existing nature of property bearing khasra No.606/1/3/3/8/8/3/4/2/2/2;

b) that petitioner was owner in possession of above said land and he had sold the same to one Resham Singh s/o Gurdev Singh vide registered sale deed. Upon death of said Resham Singh, said property was succeeded by his legal heirs. ID of the property was issued by respondent No.1 in accordance with law and NOC was issued by office of respondent No.1 before execution and registration of sale deed. Subsequently, the petitioner again purchased the suit property from legal heirs of Resham Singh by way of registered deed bearing No.7145 dated 28.01.2022;

c) that newly added respondents No.2 and 3 have no connection with the said property and learned trial Court is in error in allowing application filed by respondent No.2 under Order 1 Rule 10 read with Section 151 CPC. The petitioner being plaintiff is *dominus litis* of his Suit and therefore, impugned order deserves to be set aside.

3. I have heard learned counsel for the petitioner.

4. Perusal of Civil Suit (Annexure P1) filed by the petitioner shows that he has himself pleaded in Para 2 of the said plaint that newly added defendant No.2/respondent No.2 herein, had issued a notice under Section 52 of the Haryana Municipal Act upon respondent No.1-Corporation seeking cancellation of ID No.WD/16/499. In pursuance to said notice, respondent No.1 had issued notice upon the petitioner and legal heirs of Resham Singh. It is admitted in the plaint itself that though the petitioner/plaintiff had clarified the whole position but still respondent

No.1 had changed ID of the property in question now showing the same to be in the name of Sohan Lal/respondent No.3 herein. Learned counsel for the petitioner is unable to refute this factual position.

5. It is therefore, clear that the petitioner has himself admitted that upon issuance of notice under Section 52 of the Haryana Municipal Act by newly added respondent No.2 herein, respondent No.1 had changed the same in favour of respondent No.3. Clearly, in view of the above facts/admitted position, respondents No.2 and 3 are necessary parties to the said proceedings and need to be heard before mandatory injunction, as prayed for by the petitioner for directing respondent No.1 to correct ID No.WD/16/499 in the name of petitioner, can be granted. It is clear that respondents No.2 and 3 are necessary parties to the said Civil Suit as, in their absence Suit cannot be properly and completely adjudicated upon.

6. Accordingly, I find no merit in the present Revision Petition and the same is hereby, **dismissed**.

7. Pending application(s) if any also stand(s) disposed of.

17.03.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No