

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

279

CR-1400-2022

Date of Decision : 29.08.2023

Sukhwinder Singh

.....Petitioner

Versus

Gurwinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Ms. Bhupinder Kaur, Advocate for the petitioner.

Mr. Baljinder Singh Sra, Advocate for respondent No.1.

None for respondents No.2 to 5 despite service.

Mr. Parambir Singh, Advocate for respondent No.6.

NAMIT KUMAR, J. (ORAL)

1. The instant revision petition has been preferred by the petitioner, who is stated to be a social worker and the resident of the area where respondent No.1/plaintiff is residing, against the impugned order dated 14.03.2022 (Annexure P-9) passed by learned Civil Judge (Junior Division), Ludhiana whereby an application filed by the petitioner under order 1 Rule 10 CPC for impleading the petitioner as defendant No.6 in a suit has been dismissed.

2. Brief facts leading to the filing of the present revision petition are that respondent No.1/plaintiff has filed a Civil Suit No.3791 of 2020 tilted as 'Gurwinder Singh Vs. State of Punjab and etc.' against various State Authorities and Municipal Corporation, Ludhiana, seeking decree for declaration to this effect that the plaintiff is the

CR-1400-2022

2

owner of possession of a house bearing MC No.B-XXXVII-177/109 measuring 240 sq. yards consisting of one Hall measuring 1900 sq. ft. on Ground Floor, one Hall measuring 1900 sq. ft. on First Floor and a residential portion measuring 1400 sq. ft. on Second Floor comprised in Khata No.364/400 Khasra No.375 vide jamabandi for the years 1990-91 situated in Village Dugri, Tehsil and District Ludhiana. The petitioner has filed an application under Order 1 Rule 10 CPC for being impleading as defendant No.6 in the said suit stating that respondent No.1/plaintiff has made an illegal encroachment on the above-said property and is doing illegal construction in the said area. The said application having been dismissed vide impugned order dated 14.03.2022, the instant revision petition has been preferred.

3. Learned counsel for the petitioner submits that the petitioner is a social worker and is a resident of the area where respondent No.1/plaintiff is residing. She further submits that on a representation made by the residents of the area, show cause notice dated 10.09.2019 (Annexure P-3) under Section 269(1) of the Municipal Corporation Act, 1976 was issued to respondent No.1-Gurwinder Singh and thereafter, demolition order dated 16.09.2019 (Annexure P-5) has also been issued. But till date no action has been taken by the authority. Therefore, he intends to implead himself as defendant No.6 in the suit.

4. On the other hand, learned counsel for respondent No.1 submits that the show cause notice dated 10.09.2019 and demolition order dated 16.09.2019 (Annexures P-3 and P-5) have already been challenged by respondent No.1 in an appeal filed before the Court of

learned Additional District Judge, Ludhiana which is pending consideration before the said Court in which petitioner has also filed an application for his impleadment. He further submits that the present petitioner has no locus standi for being impleaded as defendant in the suit.

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

6. The application filed by the petitioner for being impleaded as defendant No.6 was dismissed by learned Civil Judge (Junior Division), Ludhiana vide impugned order dated 14.03.2022 by recording the following finding :-

“5. Order 1 Rule 10 CPC deals with impleading of parties. Sub-Rule 2 of Rule 10 empowers the court to add any person as a party to the suit on either of the two grounds:-

I. Such person ought to have been joined as a plaintiff or a defendant, and is not so joined; or

II. Without his presences, the question involved in the suit cannot be completely decided.

6. The plaintiff has filed the present suit for declaration that he is owner in possession of the suit property as detailed in head note of the plaint and for consequent relief of mandatory injunction and permanent injunction qua the said property. The applicant has moved this application for impleading himself as defendant in the present suit stating that he is a social worker and it was him who had apprised the authorities qua the illegal construction being raised by the plaintiff. It is admitted by the applicant that the Municipal Corporation Ludhiana is the owner of suit property as detailed in head note of the plaint. Perusal of the file reveals that Municipal Corporation is already contesting this suit as defendant no.5. The applicant has failed to inspire the confidence of this Court as to how he has the locus standi to contest the present case which

entitles him to be impleaded as a necessary party in the present case. Moreover, it is also settled law that the plaintiff is the master of his own case i.e. dominus litus. Hence, in the view of the aforesaid discussion, the present application stands dismissed with no orders as to cost. The case is adjourned to 31.03.2022 for filing written statement by defendant No.1 to 4.”

7. So far as order dated 03.03.2003 passed by the Coordinate Bench of this Court, it is noticed that in CWP No.4886 of 2003 this Court vide order dated 04.10.2008 had issued directions to the Municipal Corporation for removing the encroachment from the panchayat land and the petitioner had filed COCP No.1996 of 2020 against the erring officers/officials of concerned authority. The same was disposed of vide order dated 03.03.2023 which is reproduced as under:-

“The petitioner alleges violation of the order dated 04.10.2008, passed by this Court in CWP-4886-2003, vide which a general direction was issued to the Municipal Corporation for removing the encroachment from the panchayat land.

Admittedly, Gurwinder Singh has filed a civil suit seeking declaration that he is the owner of the land underneath property and the petitioner has moved an application under Order 1 Rule 11 CPC for being impleaded as a party in the said suit.

In view of the same, since the petitioner is availing his alternative and efficacious remedy before the civil Court, which will decide whether the land is owned by the Municipal Corporation or by said Gurwinder Singh, no case of any willful disobedience is made out against the respondents.

Accordingly, the present petition is disposed of.

Rule stands discharged.

The petitioner is granted liberty to avail the alternative remedy, in accordance with law, if so advised.”

8. Learned counsel for respondent No.6-Municipal Corporation, Ludhiana submits that they have already taken necessary steps and has issued show cause notice dated 10.09.2019 and demolition order dated 16.09.2019 (Annexures P-3 and P-5) and the petitioner is neither owner nor necessary party in the said suit, therefore, his application under Order 1 Rule 10 has rightly been dismissed by the Civil Judge (Junior Division), Ludhiana vide order dated 14.03.2022.

9. Finding no merit in the instant revision petition, the same is hereby, dismissed.

29.08.2023

Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No