

CR-3061-2022

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

CR-3061-2022

Date of Decision: 24.03.2023

Subash Chander

...Petitioner

Versus

Anjali and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.M. Wadehra, Advocate for the petitioner.

Mr. Manoj Makkar, Advocate for respondent No.1.

Mr. Satyam Sachdev, Advocate for

Mr. Sandeep K. Sharma, Advocate for respondent No.5.

HARSIMRAN SINGH SETHI, J. (Oral)

The present Civil Revision has been filed impugning the order dated 18.10.2021 (Annexure P-4) vide which, the Additional District Judge, Rohtak has dismissed the application filed by the petitioner so as to allow him to file the appeal against the judgment and decree dated 02.11.2019.

Vakalatnama has been filed on behalf of respondent No.5 in the Court today, same is taken on record.

Learned counsel for the petitioner submits that the judgment and decree passed by the trial Court dated 02.11.2019 in a suit filed by the respondent-Anjali is causing prejudice to the petitioner also hence, the application filed by the petitioner seeking leave to file an appeal especially when he was not a party to the suit, has wrongly been dismissed.

A bare perusal of the said order would show that during the

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pendency of the suit filed by respondent-Anjali, wherein she was claiming her share in the property of her husband namely, Tejinder Singh S/o Raj Kumar, the present petitioner filed an application under Order 1 Rule 10 claiming interest in the said property, which application was dismissed by the trial Court vide order dated 12.05.2015 with the clear observation that the petitioner has no interest/share in the property in question being claimed by Anjali. Thereafter, another application was filed for withdrawal of the order dated 12.05.2015, which was also dismissed. It is a conceded position that no legal recourse was adopted to challenge the order dated 12.05.2015, by which, the application filed by the petitioner/plaintiff under Order 1 Rule 10 was dismissed by the trial Court. That being so, once the trial Court found that the petitioner is not a necessary or a proper party, the declining of the relief by the lower Appellate Court to grant the petitioner leave to file the appeal, cannot be treated as an arbitrary or illegal or without appreciating the facts of the present case. Once the petitioner accepted the order passed by the trial Court rejecting his claim under Order 1 Rule 10, he could not have preferred the application seeking leave to file an appeal against the judgment and decree of the trial Court in those proceedings where he was not allowed to be a party respondent.

No ground is made out for any interference by this Court qua the impugned order.

Dismissed.

24.03.2023

ps-I

Whether speaking/reasoned

Whether reportable

:

:

Yes/No

Yes/No

(HARSIMRAN SINGH SETHI)

JUDGE