

Devan @ Devender and another

....Petitioners

versus

Chander and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. J.S. Hooda, Advocate for petitioners.

Mr. Ashok Kaushik, Advocate for respondent No.1.

ARUN MONGA, J. (ORAL)

Present revision petition is against impugned order dated 18.05.2019 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division), Palwal whereby application under Order I Rule 10 of Code of Civil Procedure, 1908 (for brevity 'CPC') for impleading the petitioners as party to suit No.109 of 06.05.2019 titled '*Chander versus Partap*' has been dismissed on mere conjectures and surmises.

2. Learned counsel for petitioners submits that agricultural land in question has been in physical/ cultivating possession of petitioners from the time of their father and grandfather, being legal heirs. He further submits that petitioners are recorded as *Gair Marusi* as per revenue entries of 2001-02, and therefore, application for impleading them as necessary party to Civil Suit No.109 of 2019 ought to have been allowed.

3. On the other hand, learned counsel for respondent No.1-plaintiff submits that respondent-plaintiff has also filed a Civil Suit No.1073 of 2020 titled '*Chander Vs. Sanjay Panchal and others*' against petitioners herein seeking declaration *qua* the same very suit property.

4. I have heard learned counsel for the parties and gone through the record.

5. After hearing learned counsels for the parties, it seems that interest of justice would be served in case, suit in question from which present revision proceedings has arisen, is directed to be heard along with Civil Suit No.1073 of 2020 which has been filed by respondent-plaintiff against petitioners herein seeking declaration *qua* the same very suit property. Learned counsel for petitioners contends that present suit is though for permanent injunction simplicitor wherein petitioners claim that since it pertains to the same very suit property *qua* which the aforesaid declaratory suit has been filed, the petitioners ought to have been made a party. It would therefore, be just and proper, if both suits are heard together. However, it is made clear that hearing of both suits together would not amount to consolidation of the cases and parties shall be at liberty to lead their independent evidence.

6. At this stage, both learned counsels are *ad idem* that since evidence and witnesses are likely to be common in both the suits, it would be rather more expedient, if instead of having evidence/ witnesses in separate suits, both suits are consolidated. It is so ordered.

7. Disposed of, accordingly.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

February 17, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No