

2023:PHHC:098524

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3841-2023 (O&M)

Date of Decision: August 01, 2023

Gurinder Pal Singh

...Petitioner

Versus

Amarjeet Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Bharat Bhushan Sharma, Advocate
for the petitioner.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 05.05.2023 (Annexure P-7) passed by learned Court below, whereby, the application filed by the petitioner under Order 1 Rule 10 CPC was dismissed.

The background facts, in nutshell, as culled out, from the paper-book, are that, initially, petitioner-plaintiff Gurinder Pal Singh had filed a suit for partition, mandatory injunction, with consequential relief of permanent injunction against respondents-defendants Amarjeet Kaur, Hero Fin Corp Ltd. through its Managing Director and Hero Fin Corp. Ltd through its Branch Manager.

In the said suit, vide order dated 14.08.2018, the respondents-defendants were restrained from encroaching upon the land, as mentioned in paragraph No.3 of the plaint, wherein, dimensions of property claimed had been mentioned as 1303 sq. yards. Thereafter, contempt application under Section 39, Rule 2-A CPC was filed by the present petitioner (plaintiff in the main suit) against the respondents, who were defendants before the Court below. In the same, it was a specific version of the petitioner-plaintiff that respondents-company had flouted the order of High Court and committed a contempt, as the possession has been taken, without demarcation, which was required to be conducted before taking physical possession. Thereupon, the contempt proceedings were initiated.

During the pendency of the contempt proceedings, an application under Order 1 Rule 10 CPC was filed by the petitioner to implead M/s India Resurgence ARC Pvt. Ltd., as party/respondent in the contempt proceedings, on the assertion that during the pendency of the contempt application, respondent-company had assigned the liability and proceedings for realization of amount to M/s India Resurgence ARC Pvt. Ltd., vide assignment letter dated 12.11.2021. In the light of this assignment, it was asserted about M/s India Resurgence ARC Pvt. Ltd. to be a necessary party for the adjudication of the contempt proceedings.

Such being the factual position, it has been rightly observed by learned Court below that the present proceedings in hand, before the Court below are contempt proceedings, conducted against the respondents-defendants, who had allegedly violated the orders/directions of the Court. In

the given circumstances, the question of impleading any party as respondent, whom the original contemnors alleged to have assigned the liability, does not arise. While dealing with the contempt proceedings, the Court concerned, has to take into consideration, only the conduct of the respondents-defendants, who were party to the suit, at the time of passing of any order by the Court, which is alleged to have been followed.

In the given circumstances, learned Court below has correctly dismissed the application under Order 1 Rule 10 CPC. If, if there is any assignment, as such, at the maximum, in the main suit, M/s India Resurgence ARC Pvt. Ltd. can be joined as defendant.

In the light of the aforesaid, the impugned order merits no interference and hence, the present revision petition stands dismissed.

August 01, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No