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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on : 28.07.2023

Uma Shankar

. . . Petitioner(s)

Versus

Manoj and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Johan Kumar, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. By way of present revision petition, challenge has been made to the order dated 31.05.2023 (P-10), passed by the learned Civil Judge (Sr. Divn.), Faridabad, whereby, application moved by the applicant namely; Uma Shankar s/o Mool Chand (defendant), for impleading him as a party in the suit, has been dismissed.

2. It is admitted fact by the petitioner (applicant) – Uma Shankar that the property in question is a Joint Hindu Family property, and he himself is only a co-parcener. The property is to be managed by the ‘Karta’ of the family, who is none else, but the father of the applicant Uma Shankar, who is defendant in the suit. Suit filed by the plaintiff – Manoj (respondent No.1 herein), for seeking possession by way of specific performance of agreement to sell dated 11.12.2013, is pending adjudication since the year 2016.

3. On being asked by the Court, petitioner disclosed that the said suit is now fixed for final arguments, and thus, at the final stage of the suit, present application was instituted.

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4. While deciding application, Ld. Trial Court has himself held in the para No.6, that a co-parcener cannot restrain 'Karta' from alienating the joint ancestral property. At the most alienation can be challenged on the ground of no legal necessity, if the property is ancestral one. Relevant para No.6 of the Trial Court order dated 31.05.2023 (P-10), is reproduced as under:-

"6. After going through the case file as well as rival contentions very carefully, this Court is of the view that there is no merit in the application in hand because applicant Uma Shankar himself in the application stated that suit land is ancestral property and belong to Joint Hindu Family. Defendant no.1 Mool Chand is father of the applicant. So, as per Hindu Law, defendant no.1 Mool Chand being father of the applicant must be Karta of the family. A co-parcener cannot restrain Karta from alienating the joint ancestral property. At the most, alienation can be challenged later on on the ground of no legal necessity, if property proved as an ancestral property. So, from the bare reading of the application itself, no ground is made out for allowing the application. Accordingly, same is hereby dismissed."

5. Further on being asked by the Court, petitioner informs that a suit for permanent injunction has also been instituted by the petitioner (applicant) along with his brother against their father. Said suit is also instituted now in the year 2023 almost on the similar grounds.

6. Considering the totality of circumstances, and going through the documents appended with the petition, apart hearing the submissions addressed by learned counsel for the petitioner, I am convinced with the reasoning given by Ld. Trial Court, which dealt with the prayer made by the petitioner. There is no illegality or infirmity in the impugned order, rather,

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allowing the petitioner (applicant) to become party to the suit, at this stage, may frustrate the very purpose of filing of the suit by the respondent (plaintiff), which is pending adjudication since the year 2016.

Thus, finding no merit in the submissions, present revision petition stands dismissed.

(SANJAY VASHISTH)
JUDGE

July 28, 2023

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*