

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

CR-6936-2023 (O&M)
Date of Decision:-**17.11.2023**

GOPAL DUTT SINCE DECEASED THROUGH LRS AND ORS

... Petitioner(s)

Versus

MAHENDER KUMAR AND ORS

... Respondent(s)

-. -

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-. -

Present:- Mr. Dev Kaushik, Advocate
for the petitioners.

-. -

KARAMJIT SINGH, J. (Oral)

1. The present petition has been filed by the petitioners/applicants against the order dated 3.10.2023 (Annexure P-5) passed by the Court of Additional Civil Judge (Senior Division), Pataudi whereby the application filed by the petitioner under Order 1 Rule 10 CPC to implead them as party to civil suit titled Mahinder Kumar vs. Tehsildar-cum-Assistant Collector 2nd Grade, Farrukhnagar and Ors., has been dismissed.
2. The counsel for the petitioners while assailing the impugned order *inter alia* contends that the petitioners are in settled possession of the suit property being *Dholidars* and their presence before the trial Court is necessary for proper adjudication of the suit. The counsel for the

petitioners further submits that the other party cannot take any benefit of judgment dated 26.3.2019 (Annexure P-2) as appeal filed by the petitioners against the said judgments is pending in the 1st Appellate Court and the copy of grounds of appeal is (Annexure P-3).

3. I have considered the submissions made by counsel for the petitioners and sought assistance of Mr. Rajinder Goel, Advocate who has filed memorandum of appearance on behalf of respondent No.1, which is ordered to be taken on record.
4. From the perusal of judgment (Annexure P-2), it is evident that Dharam Singh and Ors. filed civil suit against Mahinder Kumar and Ors. wherein, the present petitioners were impleaded as proforma defendants. In the said civil suit, Mahinder Kumar and Ors. also filed counter-claim against the other party. The said suit filed by Dharam Singh and Ors. was dismissed in default vide order dated 26.03.2019, but the counter claim filed by Mahinder Kumar and Ors. was decreed and Mahinder Kumar, Suresh Chand, Mahesh Chand and Srinivas Gupta were declared absolute owner of the suit property to the extent of half share. Thus it appears that the rights of the petitioners were adjudicated by the Court of Additional Civil Judge (Senior Division), Pataudi in judgment dated 26.03.2019 (Annexure P-2), whereby counter-claim filed by Mahinder Kumar and Ors. was decreed. Now Mahinder Kumar has filed civil suit (Annexure P-1) against the concerned Government officials with direction to implement the aforesaid judgment and decree dated 26.3.2019 and during the pendency of the said suit the petitioners filed application under Order

- 1 Rule 10 CPC for their impleadment as party to suit but the same is dismissed by the trial Court vide impugned order (Annexure P-5).
5. The rights of the petitioners qua the suit land are adjudicated by the Court of Additional Civil Judge (Senior Division), Pataudi vide judgment (Annexure P-2) dated 26.3.2019 against which the petitioners have filed appeal (Annexure P-3), which is still pending for its disposal. Subsequent suit (Annexure P-1) has been filed by respondent No.1-Mahinder Kumar for execution of judgment and decree Annexure P-2. This Court is of the view that the petitioners are neither necessary nor proper party for disposal of the said suit. In case the petitioners think that their rights are being prejudiced, they should approach the Appellate Court where their appeal (Annexure P-3) is pending to seek stay regarding operation of judgment (Annexure P-2) and they are at liberty to file an application for preponment of the said appeal for the aforesaid purpose.
6. For the forgoing reasons, no ground is made out to set aside the impugned order. Consequently, the revision petition is hereby dismissed, but with aforesaid liberty to the petitioners.

17.11.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No