

CR-152-2024 (O&M)

- 1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CR-152-2024 (O&M)

Date of decision: 16.05.2024.

Parminder Singh

...Petitioner.

Versus

Sohan Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present : Mr. Vishal Sharma, Advocate for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 02.01.2024 passed by learned trial Court, vide which the application under Order 1 Rule 10 CPC filed by the petitioner/ plaintiff, was dismissed.

2. The relevant facts for adjudication of the present revision petition are that petitioner/ plaintiff filed a suit for recovery against the defendants regarding the amount which was got deposited in the accounts of the defendants for sending the plaintiff Italy. Since the defendants did not send the plaintiff to Italy as promised, so the instant suit for recovery was filed by the plaintiff.

3. The said suit was contested by defendants No.1 to 4/ respondents by filing written statement. Then during pendency of this suit an application was moved before the trial Court for adding the name of Ajit Singh as plaintiff No.2, who is grandfather of the plaintiff, who allegedly made the online payments/ bank transfers to the respondents/ defendants for

CR-152-2024 (O&M)

- 2-

sending the plaintiff to Italy. Reply to the said application was filed by the defendants. Then vide the impugned order dated 02.01.2024, the said application was dismissed by the trial Court. Hence, the petitioner has knocked the doors of this Court by way of filing of the present revision petition.

4. Learned counsel for the revision petitioner has contended that Ajit Singh, who is grandfather of the petitioner/ plaintiff and who made all the payments to send his grandson to Italy, is a necessary party to the suit and is required to be impleaded as plaintiff No.2 for just and proper adjudication of the case. He has further contended that the proposed plaintiff No.2 Ajit Singh has already been produced as a witness and no new evidence is to be led. He has submitted that the impugned order has been passed by ignoring the provisions of Order 1 Rule 10 CPC, and has relied upon the judgment of Hon'ble Supreme Court in case **Vidur Impex and Traders Pvt. Ltd. and others Vs. Tosh Apartments Pvt. Ltd and others, 2012 (4) R.C.R. (Civil) 308.**

5. I have heard learned counsel for the petitioner and have gone through the relevant record.

6. Order 1 Rule 10(2) CPC reads as follows:-

“Court may strike out or add parties- The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may

be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.”

7. The trial Court had dismissed the application on the ground that as per the application the payments were allegedly made by Ajit Singh in the year 2018, so the cause of action accrued to the petitioner in the year 2018. But the present application has been filed after expiry of the period of limitation of three years. As the suit for recovery can be filed within three years from the date of accrual of the cause of action, so it will be barred by limitation.

8. It is the trite law that insofar as impleading of parties to the suit is concerned, he has to be a necessary party or a proper party to the proceedings. Necessary party is one without whom no effective order can be made. Proper party is one whose presence is necessary for a complete and final decision. Unless these requirements are satisfied, a person cannot be added as a party to a suit.

9. The present suit is a suit for recovery that has been filed by the plaintiff Parminder Singh on the basis of the alleged transaction held in the year 2018, when the amount was allegedly given to the defendants for sending the plaintiff abroad. The plaintiff wants to add Ajit Singh his grandfather as a co-plaintiff, as the alleged payments were made to the defendants by way of online transactions by his grandfather Ajit Singh. There is no dispute regarding the legal proposition that a suit for recovery can be filed within three years from the date of accrual of the cause of action. So, as per the plaint, the cause of action has accrued to the plaintiff

CR-152-2024 (O&M) - 4-

in the year 2018 and the payment was also allegedly made by the proposed co-plaintiff Ajit Singh in the year 2018. So, obviously the present application for impleading him as a co-plaintiff has been moved after the period of limitation of three years from the date of accrual of cause of action i.e. in the year 2018. The trial Court has thus rightly held that if Ajit Singh is allowed to be impleaded as a co-plaintiff, then this would amount to allowing the suit for recovery to be filed after the expiration of period of limitation which would be apparently time barred. Ajit Singh may be examined as a witness by the plaintiff if he so desires. But he cannot be impleaded as co-plaintiff in the instant suit after period of limitation for filing a suit for recovery has expired qua him.

10. So far as, the case law referred by learned counsel for the petitioner is concerned, the same is of no help to him, the same being distinguishable from the facts of the instant case.

11. Thus, there being no illegality or infirmity in the impugned order no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

12. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

16.05.2024.
komal

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