

2024:PHHC:126695



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

CR-958-2024 (O&M)
Date of decision : 24.09.2024

PRACHIN SHIV MANDIR COMMITTEE

... PETITIONER

VERSUS

CHARAN SINGH AND OTHERS

...RESPONDENTS

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Ajay S. Dhiman, Advocate for respondent Nos.1 to 9.

Mr. Kamaldeep Singh Sidhu, Advocate for respondent No.11.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been preferred by the petitioner challenging the dismissal of the application filed under Order 1 Rule 10 read with Section 151 CPC to implead it as a party in Civil Suit No.216 of 2022.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent Nos.1 to 10 filed a suit for permanent injunction for restraining the defendant-respondent No.11 and his servants and agents from removing the steel bench which had been installed for the public of ward No.3 in the common space adjoining to the Shiv Mandir Hall. The petitioner herein filed an application under Order 1 Rule 10 read with Section 151 CPC being impleaded as a party as the specific allegations were made against the

petitioner. The said application was contested by filing the reply. Vide the impugned order, the application was dismissed holding that the petitioner being *dominus litus*, no person could be impleaded as a party against his wishes.

3. Learned counsel for the petitioner would contend that in para 7 of the plaint, specific allegations have been made against the petitioner herein that they want to encroach upon the common place and the defendant-respondent No.11-Nagar Panchayat was removing the said steel benches only to aid the petitioner herein in encroaching upon the land. Hence, since specific allegations were made against the petitioner, the petitioner would be a necessary party.

4. *Per contra*, learned counsel for the respondents would contend that the petitioner is not a necessary party and that the plaintiff being *dominus litus*, no person can be impleaded against his wishes.

5. Heard.

6. In the present case, on a pointed query by the Court, the learned counsel for the respondents has candidly admitted that there are specific allegations which have been made against the petitioner herein in para 7 of the plaint. As such, the arguments of the learned counsel for the respondents that since the respondent Nos.1 to 10 are *dominus litus* and a party cannot be impleaded against the wishes of the plaintiffs deserves to be rejected. In the present case, as argued by learned counsel for the petitioner, specific allegations have been made against the petitioner in para 7 of the plaint which fact learned counsel for the respondents is also not in a position to deny. When specific allegations have been made against the party to the

extent that they are encroaching upon the area in dispute, they would be a necessary party in the suit.

7. In view of the above, the present revision petition is allowed. The application (Annexure P-3) of the petitioner herein accordingly stands allowed and the petitioner is allowed to be impleaded as a defendant in the suit before the Trial Court. Pending applications, if any, also stand disposed off.

24.09.2024
Ankur

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO