

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

135

CR-814-2024 (O&M)
Decided on: 21.02.2024

KUNHAL KUMAR

...Petitioner

Versus

HDFC BANK LTD AND OTHERS

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Viren Jain, Advocate
for the petitioner.

RITU TAGORE, J. (Oral)

1. This revision is directed against the order dated 03.11.2023 (Annexure P-1) passed by Civil Judge (Junior Division), Ludhiana in Civil Suit No.3585-2023 titled ‘Kunhal Kumar Vs. HDFC Bank Ltd. and another’ whereby an application (Annexure P-4) under Order 1 Rule 10 read with Section 151 Code of Civil Procedure, 1908 (referred to as ‘the CPC’), filed by respondent No.3, has been allowed.
2. Considering the limited prayer made in this revision, notice to respondents deemed not necessary and is dispensed with.
3. Learned counsel submits that the petitioner-plaintiff through his father/attorney filed a suit for permanent injunction (Annexure P-1) seeking to restrain the respondents-defendants, HDFC Bank Limited, Kidwai Nagar Branch, PUDA Complex, Near Field Ganj, Kidwai Nagar Ludhiana, (respondent No.1) and Manager, HDFC Bank (respondent No.2), from releasing half share of funds lying in account No.50100258539967 of late

Sh. Balraj Kumar bearing customer ID No.118708190 to any third person except the plaintiff.

4. Learned counsel submits that the petitioner in the aforementioned civil suit primarily averred that he is grandson of late Sh.Balraj Kumar, who passed away on 22.02.2023. He had executed a registered Will dated 18.12.2013 bearing vasika No.685 determining the succession to his estate. Late Sh. Balraj Kumar was having a bank account No.50100258539967 with HDFC Bank, Kidwai Nagar, Ludhiana. According to the said Will, petitioner has succeeded to half share of total proceeds of the said account on the basis of the Will. Despite the said Will, the bank did not release the share in his favour, apprehending collusion of the bank officials with some third party and wrongful withdrawal of the funds on the basis of some forged and fabricated documents, necessitated the petitioner to file the aforesaid suit.

5. Learned counsel submits that the petitioner also sought the relief in the form of mandatory injunction, directing the defendants-Bank to release the petitioner's share. Furthermore, learned counsel contends that during the pendency of the suit, the respondent No.3 filed an application under Order 1 Rule 10 CPC (Annexure P-4) alleging that deceased Balraj Kumar was his grand-father. He claimed to have been nominated in respect of the bank account in question and also propounded a Will dated 05.10.2020 allegedly executed by late Balraj Kumar in his favour. Additionally, he asserted that he is a Director in the company M/s York Knitwear Limited, also shared a joint locker with late Balraj Singh and a co-licencor in the rental-agreement qua the property with Mani Ram Balwant Rai. In the application, he also claimed to have moved an application in the bank to release amount of the account of the depositor, late Balraj Kumar,

but it was not released by the bank officials. Apart from the above, applicant also pleaded that the petitioner intentionally did not implead him as a party in the case and obtained an *ex parte* injunction against him.

6. The learned counsel submits that the learned trial Court wrongly allowed the application without considering the settled principle of law that plaintiff is a *dominus litus* of his case and cannot be compelled to add a party to his suit. Furthermore, no relief was sought against the respondent No.3-applicant. Learned counsel further submits that with the impleadment of respondent No.3, based on the allegations made by him, will change the nature of the suit altogether. It is thus, prayed that the impugned order is liable to be set aside.

7. I have heard learned counsel for the applicant and have gone through the paper book.

8. Learned trial Court, in its order specifically concluded that the petitioner, through the civil suit in question, is not only seeking the relief of permanent injunction against the bank but is also seeking the relief of mandatory injunction directing the respondent-Bank to release half of the funds lying in the account of deceased Balraj in his favour. The applicant (respondent No.3) has sought his impleadment in the suit on the basis that he is a legal heir of late Balraj Kumar, as stated in the Will dated 05.10.2020 and is also a nominee in the bank account of the deceased. The learned Court also noticed the Will claimed by the plaintiff, allegedly executed in his favour in the year 2013, and the subsequent Will dated 05.10.2020 propounded by the applicant- respondent No.3, wherein previous Will was allegedly revoked by the testator and applicant was given 25% share in all the properties. The learned trial Court observed that the interest of the applicant (respondent No.3) are directly in conflict with the relief claimed by

the petitioner-plaintiff, therefore, found that applicant to be a necessary party for effective adjudication .

9. Taking into account the pleadings of the petitioner-plaintiff and the applicant, in the considered opinion of this Court, the impleadment of the applicant would not change the nature of the suit. However, it may enlarge the scope of the suit. Nonetheless, the plaintiff is a master of his case and he has right to chose his opponent against whom the relief is sought, yet the Court, can always add or strike out, at any stage, a person as a party either upon or without application, when appears necessary in the case for the thorough and complete adjudication of the controversy. In this regard, a fruitful reference can be made to the Order 1 Rule 10 (2) Code of Civil Procedure, which provides as under :-

“Order 1 Rule 10 (2) 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 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.”

10. Keeping in view the above discussion, this Court finds no ground to interfere in the order dated 03.11.2023 (Annexure P-1). The trial Court has rightly added the applicant (respondent No.3) as a party in the case. In the given controversy, the applicant (respondent No.3) appears a necessary party for complete adjudication of the controversy raised by the petitioner. The revision petition , accordingly fails and is dismissed.

11. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

21.02.2024
Rimpal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No