



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

132

CR-2512-2024 (O&M)**Date of decision : 18.12.2024****Baj Singh and others****..... Petitioners****versus****M/s. Samridhi Industries and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Ms. Rupinder Kaur Thind, Advocate and
Mr. Balsher Singh, Advocate
for the petitioners.

Mr. Aakash Singla, Advocate
for respondent No.1.

None for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. Present revision petition is directed against order dated 08.04.2024, whereby application filed by the petitioners seeking impleadment as party in the suit filed under Order 1 Rule 10 read with Section 151 Code of Civil Procedure, 1908 stands declined.

2. Plaintiff filed suit for declaration to the effect that the notices issued by the Municipal Committee, Ellenabad i.e. defendant regarding removal and stoppage of the activities of the plaintiff are illegal, arbitrary and against the law and further sought decree of permanent injunction restraining defendant from initiating any proceedings and interference in peaceful and lawful possession of the plaintiff.

3. Plaintiff is running atta chaki/grinding machine. Defendant-Municipal Committee issued notices to the plaintiff on the complaint



received from the inhabitants of the area seeking clarification regarding permission to run the industry in the residential area. Notices were issued under the provision of Section 128 and 131 of the Haryana Municipal Act, 1973. Plaintiff filed present suit impugning the said notices, impleading Municipal Committee as defendant. Applicants i.e. the petitioners before this Court asserting their right as the inhabitants of the area falling in the neighborhood of the said factory filed present application under Order 1 Rule 10, CPC seeking impleadment as proper and necessary party.

4. Trial Court vide impugned order dismissed the application holding that since no relief has been claimed against the applicants and they are already before the authorities, who have initiated action against the plaintiff, they are neither necessary nor proper parties and dismissed the application.

5. Counsel for the petitioner while assailing the impugned order submits that even if it is assumed for the sake of arguments that the petitioners are not necessary parties, still they are proper parties. The basic issue that needs to be addressed is whether the plaintiff is guilty of causing nuisance to the residents and inhabitants of the locality or not. In the absence of applicant, the said issue cannot be effectively adjudicated and thus the petitioners are at least proper parties. Counsel for the petitioners relies upon ***Rajiv Goel vs. Sohan Lal Khosla, 2012(6) RCR (Civil) 3109 and Nand Lal Nandwani vs. Bhagwan Dass 1986 PLJ 22.***

6. *Per contra*, Mr. Singla submits that since the plaintiff has not claimed any relief against the petitioners and as far as question of nuisance is concerned, the applicants, if aggrieved have independent



cause of action. They cannot be perceived to be necessary or proper parties to the present *lis*.

7. I have heard counsel for the parties and have carefully gone through the records of the case.

8. Trite it is that the plaintiff is master of his suit. The only exceptions are the applicants seeking impleadment being necessary or proper party. The test for party to be impleaded as necessary or proper party to the *lis* has been laid down by five Judges Bench in ***U.P. Awas Evam Vikas Parishad vs. Gyan Devi (dead) by LRs.*** reported as **1995(2) SCC 326**, wherein the Supreme Court observed as under:-

“22. xxx xxx xxx

That raises the question whether the local authority can be regarded as a necessary or a proper party. The law is well settled that a necessary party is one without whom no order can be made effectively and a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision of the question involved in the proceeding. (See: Udit Narain Singh Malpaharia v. Additional Member, Board of Revenue, [1963] Supp. 1 SCR 676, at p. 681. A local authority for whom land is being acquired has a right to participate in the acquisition proceedings in the matter of determination of the amount of compensation while they are pending before the Collector and to adduce evidence in the said proceedings. While it is precluded from seeking a reference against the award of the Collector it can defend the award and oppose the enhancement of the amount of compensation sought before the reference court by the person interested in the land. Moreover the local authority has a right to



appear and adduce evidence before the reference court. Having regard to the aforesaid circumstances, we are of the opinion that the presence of the local authority is necessary for the decision of the question involved in the proceedings before the reference court and it is a proper party in the proceedings. The local authority is, therefore, entitled to be impleaded as a party in the proceedings before the reference court.”

9. Admittedly, there is no relief claimed against the petitioners-applicants and thus they cannot be held to be necessary parties. The issue in the *lis* is with respect to initiation of proceedings by the Municipal Committee against the plaintiff by issuing notices under Section 128 and 131 of the Haryana Municipal Act, 1973. It is not disputed that the suit is being contested effectively by Municipal Committee which is evident from the impugned order whereby application under Order 39 Rule 1 and 2 filed by the plaintiff was decided.

10. It has also come on record vide Annexure P-5, the residents are already before Sub-Divisional Officer Officer (Civil), Ellenabad wherein they have complained of nuisance against the plaintiff.

11. In view of above, this Court does not find that the presence of the applicants-petitioners is necessary either as necessary or as proper party(s). The Trial Court has rightly dismissed the application.

12. Finding no merit in the present revision petition, the same is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

18.12.2024

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No