



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-3265-2024
Date of Decision.:15.07.2024

Kartar Singh	Petitioner
Vs.	
Jagat Singh and Others	Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sanchit Punia, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J. (ORAL)

In a suit for permanent injunction filed by plaintiff- Kartar Singh (petitioner herein) against defendant Nos.1 to 4 (respondent Nos.3 to 6 herein), respondent Nos.1 & 2 have been permitted to be impleaded as defendant Nos.5 & 6 vide impugned order dated 19.04.2024 on an application under Order 1 Rule 10 CPC moved by them, which order is assailed by the petitioner- plaintiff before this Court.

2. Contention of learned counsel is that dispute was regarding the construction of the water course/khal being raised by the defendants through western dol of land comprised in Khasra No.12/17 (8-0) as per details given in the plaint, situated at Village Bherian, Tehsil and District Hisar and so, there was no justification to implead the respondent Nos.1 & 2, against



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whom petitioner had not raised any claim.

3. After hearing learned counsel for the petitioner- plaintiff and after going through the impugned order, passed by the trial Court (Annexure P-10), this Court does not find any merit in this revision petition. Observations made by the trial Court in the impugned order contained in para No.7 to 10 are as under:

“7. From the perusal of the record it emerges that the plaintiff has filed the present Suit for Permanent Injunction restraining the defendants from causing any interference, interruption and obstruction in peaceful possession of the plaintiff by constructing any alleged Khal/Watercourse through the western dol of land comprised in Khewat No. 147, Khatuni No. 232 Killa No. 12//17 situated at Village Bherian, Tehsil and District Hisar as per Fard Jamabandi for the year 2017-18 over which plaintiff is coming in exclusive possession. Counsel for the plaintiff contended that the relief in question has been specifically sought by the plaintiff against the defendants, and the entirety of the case revolves around the dispute between the plaintiff and the defendant. Therefore, it is argued that the applicant cannot be deemed a necessary or proper party for the purposes of the relief sought by the plaintiff against the defendants. This Court does not find any merit in the aforesaid argument advanced on behalf of Ld. counsel for the plaintiff. In this regard, it is pertinent to mention here applicant Madan Lal is owner in possession of land comprised in Khewat No. 147 Khatoni No. 231 Killa No. 12//23(6-13), 24 (1-7) situated at Village Bherian, Tehsil and District Hisar as per Jamabandi for the year 2017-18 which is placed on record by plaintiff only. That, as per the site plan of Moga No. 4250/R, Meriya Sub Minor, which is placed on record, it is apparent on the face of it that the watercourse/khal, shown in the site plan from point A to C, from North to South between Killa No. 12//17 and Killa No. 12//18 and touching the boundaries of these two killas, is going towards Killa No. 12//23 & 24. The relief of injunction sought by the plaintiff restraining the defendants from constructing any watercourse through Killa No. 12//17 would definitely have a direct bearing on the rights of the applicant Madan Lal since the aforementioned watercourse was constructed with the



intention of supplying water to the land belonging to the applicant Madan Lal. In these circumstances, the applicant can be said to be a necessary party for the purposes of the present suit as he is the person who is likely to suffer if any decree is passed in the present suit.

8. *On the other hand, since applicant Jagat Singh was party to the proceedings before the canal authorities, therefore, his presence is necessary for a complete and final decision on the questions involved in the proceedings. His presence will enable this court to adjudicate matter in issue in a more effective and effectual manner. Hence, this court is of the considered opinion that he is proper party for the purpose of present suit. This court draws strength from the ruling of Hon'ble Supreme Court of India in case titled as Udit Narain Singh Malpaharia Vs. Additional Member, Board of Revenue, Bihar & Anr., AIR 1963 SC 786 wherein it has been held that "A party whose interests are directly affected is, therefore, a necessary party. In addition, there may be parties who may be described as proper parties, that is parties whose presence is not necessary for making an effective order but whose presence may facilitate the settling of all the questions that may be involved in the controversy."*

9. *Decision of Hon'ble Supreme Court in Gurmit Singh Bhatia (supra) is not applicable to the facts and circumstances of the present case as in that case suit for specific performance was filed by the plaintiffs against the defendants whereas present suit is for injunction. Said decision of hon'ble apex court was based on altogether different facts.*

10. *In light of the aforesaid discussion, the applications at hand stands allowed and applicants Jagat Singh and Madan Lal are hereby impleaded as defendant No. 5 & 6 in the array of parties. The plaintiff is directed to furnish on record a fresh memo of parties on the next date of hearing."*

4. It is evident that the water course shown in the site plan from North to South between Killa No.12/17 (belonging to the plaintiff); and Killa No.12/18 (belonging to respondent Nos.1 & 2), touches the boundaries of these two killa nos. and then it goes towards killa No.12/23 and 12/24. Learned trial Court has rightly observed that relief of injunction sought by



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the plaintiff to restrain the defendants from constructing any water course through killa No.12/17 will definitely have a bearing on the rights of the applicants Madan Lal and as such, he was considered to be necessary party to the suit.

5. No illegality is found in the present order having regard to the facts and circumstances.

Dismissed.

(DEEPAK GUPTA)
JUDGE

July 15, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No