



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

CR-3697-2024

Date of Decision: 05.07.2024

MUKESH GOYAL AND ANOTHER

....Petitioners

VERSUS

GOPAL SINGH AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Akshay Jindal, Advocate
for the petitioners.

VIKAS SURI, J. (Oral)

1. This revision petition has been preferred under Article 227 of the Constitution of India by petitioner-defendant No.1-Mukesh Goyal and petitioner No.2-Nirmala Devi for setting aside order dated 22.02.2023 passed by learned Additional Civil Judge (Senior Division), Panchkula.

2. At the very outset, learned counsel for the petitioners seeks withdrawal of the present petition qua petitioner No.2 with liberty to file an independent petition as her application for being impleaded as a party to the suit under Order 1 Rule 10 CPC is still pending before the trial Court.



3. Dismissed as withdrawn qua petitioner No.2 with liberty aforesaid.

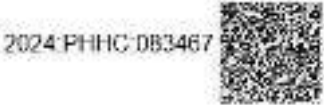
4. Learned counsel for the petitioner No.1 (hereinafter referred to as 'petitioners) submits that plaintiff-respondent Nos.1 and 2 have filed a suit seeking declaration to the effect that the plaintiff along with proforma defendant Nos.2 and 3 (respondent Nos.3 and 4 before this Court) are owner in possession of the suit land with consequential relief of permanent injunction against the defendants. It is submitted that vide order dated 20.02.2024, plaintiff No.2-Bhag Singh has suffered a statement that he does not want to pursue the present suit and as such there is only one plaintiff left i.e. Gopal Singh. It is further submitted that defendant No.1-petitioner has been impleaded by misrepresenting him as a resident of Village Thapli Bhoj Mataur, Morni, District Panchkula, whereas he is not resident of the said village. As such, the petitioner was never served any notice in the present suit. The petitioner was proceeded against *ex parte* vide order dated 15.04.2021 (Annexure P-2). The petitioner has already moved an application dated 19.09.2023 for setting aside of the *ex parte* order dated 15.04.2021. Despite having availed six opportunities, the plaintiff has not filed any reply to the application till date. The proceedings in the said suit are continuing simultaneously. The *zimni* orders from 10.03.2021 till 22.05.2024 have been collectively appended with the revision petition. Vide order dated 22.05.2024, the proceedings now stand deferred to 10.09.2024. Vide



order dated 22.02.2023, the trial Court had appointed Field Kanungo as Local Commissioner to demarcate the suit property. The said order had been passed in favour of the plaintiff-respondent on misrepresentation and concealment of correct facts. The plaintiff has categorically pleaded in paragraph-3 of the plaint that defendant No.1-petitioner is stranger to the suit land but is owner of the adjoining land and under garb of the same has tried to interfere in the peaceful possession of plaintiff and proforma defendant Nos.2 and 3. The plaintiff has concealed that the mother of the petitioner is a co-sharer along with the plaintiffs and proforma defendant Nos.2 and 3 in the suit land. The mother of the petitioner has already filed application under Order 1 Rule 10 CPC, notice of which has been issued and the same is pending adjudication. The plaintiff has not disclosed that mother of the petitioner is a co-applicant in the application (Annexure P-10) seeking stay of demarcation proceedings and review of the order dated 22.02.2023.

5. Learned counsel for the petitioner submits that the petitioner is being prejudiced, as on one hand the *ex parte* proceedings are continuing and on the other hand his application for setting aside *ex parte* order dated 15.04.2021 is being adjourned from time to time.

6. In view of above, learned counsel for the petitioner states that he confines his prayer in the present revision petition to seek direction to the trial Court to decide the application dated 19.09.2023 (Annexure P-5), in a time bound manner.



7. Without expressing any opinion on the merits of the contentions raised in the revision petition, the instant petition is disposed of with a direction to the trial Court to dispose of the application seeking setting aside of the *ex parte* order, expeditiously. Additionally, liberty is granted to the petitioner to seek preponement of the matter and on an appropriate application being filed in that regard, it is expected that the Court below will dispose of the same in accordance with law, without much delay.

8. The present revision petition is disposed of in the above terms. Pending applications, if any, also stand disposed of.

July 05, 2024
Sangeeta

(VIKAS SURI)
JUDGE

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