



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

135

CR-3790-2024

Date of Decision: 10.07.2024

Santosh Kumari

....Petitioner

Versus

Hanuman Mandir, Baba Nath Da Dera and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Shubham Chandel, Advocate
for the petitioner.

VIKAS SURI, J.(Oral)

1. A prayer in this petition under Article 227 of the Constitution of India filed by petitioner – Santosh Kumari is for setting aside order dated 31.05.2024 (Annexure P/4) passed by the learned Civil Judge (Senior Division), Talwandi Sabo, whereby her application under Order 1 Rule 10 C.P.C for being impleaded as defendant No.3 in an injunction suit, has been declined.

2. The brief facts are that plaintiff – Hanuman Mandir, Babe Nathe Da Dera, Maur Mandi, Tehsil Talwandi Sabo, District Bhatinda, filed a suit for permanent injunction restraining the defendants from interfering in the peaceful possession of the plaintiff over the land measuring 30 feet X 40 feet

situated at Gaushala Road, Maur Mandi, and also restraining them from raising any hurdle in the construction work of the Mandir over the suit land.

3. Upon notice of the suit, the defendants entered appearance and opposed the same by filing written statement. It was pleaded by the defendants that the suit property was owned by deceased – Jai Ram, who was the father of defendants and the Priest of plaintiff – Mandir, through whom the suit has been instituted, along with other legal heirs of deceased – Jai Ram. After the death of Jai Ram, Rajinder Pal (Priest of plaintiff – Mandir), and the defendants along with other legal heirs, succeeded to the estate of Jai Ram, including the suit property. In the said suit, one of the legal heirs namely Hem Lata daughter of the aforesaid Jai Ram, moved an application dated 20.01.2014 (Annexure P/5) under Order 1 Rule 10 C.P.C seeking to be impleaded as a party defendant in the suit. It was averred in the application that Jai Ram Dass expired on 06.03.2011 and was survived by eight legal heirs i.e. Smt. Champa Devi (widow), and children namely Hem Lata, Madan Lal, Rajinder Pal, Devinder Sharma, Surinder Kumar, Krishan Chand and Santosh Kumari. The plaintiff/respondent suffered a statement that he has no objection in case the said application under Order 1 Rule 10 C.P.C is accepted and in view of the same, the said application was allowed, vide order dated 15.04.2014 (Annexure P/6).

4. The petitioner moved an application dated 19.01.2024 (Annexure P/3) under Order 1 Rule 10 C.P.C for being impleaded as a defendant in the said suit. A perusal of the said application shows that similar averments were

made, as were made in the earlier application dated 20.01.2014 (Annexure P/5), by her sister namely Hem Lata. On notice, the said application was opposed by filing reply. The trial Court, having observed that if the petitioner had any grievance against the plaintiff, she could take separate legal action, as per law, dismissed the application. It was further noticed that in a suit for permanent injunction, the relief sought is personal in nature and the plaintiff being *dominus litis* cannot be compelled to litigate against the person, against whom he does not claim any relief. While considering the aspect of parity, it was noted that the said plea was not tenable, as the plaintiff/respondent had contested the application of the petitioner, whereas a concession was given on the application dated 20.01.2014 (Annexure P/5) of her sister, namely Hem Lata, as is evident from order dated 15.04.2014.

5. Heard the learned counsel for the petitioner and perused the record.

6. Undisputedly, the present civil suit is for permanent injunction and there is no dispute raised regarding the ownership of the suit property in the instant suit. A perusal of plaint Annexure P/1, would show that the relief of injunction has only been sought against the defendants originally impleaded, wherein the allegation of interference over the suit property is also against the defendants/respondents namely Davinder Sharma @ Davinder Pal and Surinder Kumar sons of Jai Ram Dass. It is well settled that the plaintiff being the *dominus litis* has a right to choose as against which parties, it intends to litigate. Moreover, in the present suit, no relief for declaration has been sought that at best may be set to affect the rights of the petitioner.

7. In view of the above discussion, I am of the considered view that the impugned order does not suffer from any illegality or infirmity that may warrant interference by this Court. Accordingly, the present revision petition, being bereft of merits, is dismissed in *limine*.

(VIKAS SURI)
JUDGE

July 10, 2024
Varinder Prashad

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