



CR No.3855 of 2024 (O&amp;M)

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129                      IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.3855 of 2024 (O&M)  
Date of decision : 15.07.2024

Nishan Singh (deceased) through his LR's                      ..... Petitioner

versus

Municipal Corporation & ors.                      ..... Respondents

**CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN**

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Present :-     Mr. Jatin Bansal, Advocate  
                     for the petitioner.

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**PANKAJ JAIN, J. (ORAL)**

1                      Present revision petition is directed against the order dated 27.05.2024 (Annexure P-1) passed by Civil Judge (Junior Division), Panipat whereby an application filed by respondent No.4 seeking impleadment as defendant under Order 1 Rule 10 stands allowed.

2                      The petitioner filed civil suit seeking decree of permanent injunction seeking restrain against Municipal authorities from transferring/changing the records of the property claimed to be under his ownership. Petitioner is already in the thick of *lis* with the aforesaid Satish Kumar wherein Satish Kumar is disputing the title of the petition. From the records it seems that the primary dispute is with respect to identification of the property. The petitioner claims that the property in dispute falls within the khasra Nos owned by him whereas the said fact is being disputed by Satish Kumar. Thus the petitioner apart from the *lis* that he is fighting with Satish Kumar filed the present



suit against Municipal Corporation claiming that the record of right of suit property owned by the petitioner be not changed.

3 Learned counsel for the petitioner while assailing the impugned order submits that since the petitioner has filed suit only with respect to the property owned by him with which Satish Kumar has no concern, Satish Kumar ought not have been impleaded as necessary or proper party. He submits that the trial Court erred in allowing the application filed by Satish Kumar without realizing that no relief was claimed against him. He further submits that the petitioner is master of his lis and the order passed by the trial Court is patently in the teeth of doctrine of *dominus litus*.

4 He further submits that the trial Court wrongly relied upon demarcation report while passing the impugned order which already stands ignored by this Court in **CWP-29564-2018** vide order dated 21.02.2019 placed on record as Annexure P-11 holding the same to be forged and fabricated document. Further reliance is being placed on Annexure P-20 to submit that Satish Kumar having already sold the property has nothing to do with the same and thus, ought not have been impleaded as a party to the suit.

5 I have heard learned counsel for the petitioner and have gone through the records of the case.

6 In order to appreciate the plea raised by learned counsel for the petitioner it will be apposite to peruse paras No.2 to 5 of the plaint which read as under :-

“2. That the plaintiff is having his residential house over the suit



*property and the plaintiff along with his family members is residing therein. There is also cattle shed, rooms and trees over the suit property as shown in the site plan attached. There is also a tenant in the suit property namely Balvinder Singh son of Kuldeep Singh. In this manner the plaintiff is owner and in physical possession of the entire suit property.*

*3. That the State of Haryana/HUDA issued a notice dated 4.3.2015 to the plaintiff for vacation of the suit property which was acquired vide award dated 21.2.1992. The plaintiff then filed a CWP No.4471 of 2015 in the Hon'ble High Court of Punjab and Haryana, against the State of Haryana and HUDA etc. for quashing of notifications of acquisition and award of the suit property and for directing the respondents State of Haryana etc. to release the land of the plaintiff from acquisition. In the said CWP, the Hon'ble High Court, vide order dated 5.4.2015, has ordered that the status quo shall be maintained by the parties. This proves the possession of the plaintiff over the suit property as owner.*

*4. That the defendant has got no concern, right, title or interest in the suit property and he is totally stranger to the suit property. But the defendant has an evil eye on the suit property and he wants to grab the same forcibly and illegally from the plaintiff.*

*5. That the plaintiff requested the defendant to refrain from his illegal designs and not to interfere in the ownership and possession of the plaintiff over the suit property but the defendant finally in the last week of April 2016 refused to admit the lawful claim of the plaintiff and threatened to dispossess the plaintiff from the suit property and take possession of the suit property forcibly in the near future. In case the defendant succeeds in their illegal designs, the plaintiff will suffer an irreparable loss and injury which cannot be compensated in terms of money. In these circumstances, the plaintiff is left with no alternative except to file the present suit against the defendant.”*

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From the reading of plaint, it is evident that the petitioner in fact wants that the property should not be transferred by the Municipal



Corporation in the name of Satish Kumar. At the root of the grievance of the petitioner lies the claim being agitated by Satish Kumar *vis-à-vis* the property. The petitioner wants to fight but a proxy war at the back of Satish Kumar. The doctrine of *dominus litus* is not disputed. It is not disputed that the petitioner is master of his suit and cannot be forced by the Court to fight against someone he does not wish to. But at the same time the provision as contained under Order 1 Rule 10(2) of CPC is an exception to the 'principle of *dominus litus*' and the same clothes the Court with power to implead party to the *lis* if it considers him to be necessary or proper.

8           The concept of necessary and proper party stands laid down by larger Bench of Apex Court in the case of ***Udit Narain Singh Malpaharia Vs. Additional Member Board of Revenue, Bihar and another (1963) AIR (Supreme Court) 786*** observing as under :-

*“7. To answer the question raised it would be convenient at the outset to ascertain who are necessary or proper parties in a proceeding. The law on the subject is well settled : it is enough if we state the principle. A necessary party is one without whom no order can be made effectively; 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 on the question involved in the proceeding.”*

9           The same has been reiterated with approval by 5 judges Bench in ***U.P. Awas Evam Vikas Parishad Versus Gyan Devi (dead) by L.Rs. 1995 AIR (Supreme Court) 724*** holding 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.*

xxx xxx xxx”

10 Keeping in view the aforesaid settled proposition of law laid down by Apex Court, this Court finds that once from the plaint itself it is amply clear that the petitioner in fact wanted to steal a march over Satish Kumar, impleadment of Satish Kumar cannot be said to be illegal or unjust.

11 Needless to observe that anything observed herein shall not be construed as an expression of opinion.

12 At this stage counsel for the petitioner agitates about reliance by trial Court on demarcation report. Even if reliance by the trial Court on the demarcation report is ignored, Satish Kumar still cannot be said to be neither necessary nor proper party.

13 Revision stands dismissed.

( PANKAJ JAIN )  
JUDGE

15.07.2024  
Pooja sharma-I

Whether speaking/reasoned  
Whether Reportable :

Yes  
No