

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5446-2023 (O&M)

Date of Decision: 12.02.2024

KULDEEP

..... PETITIONER

VS

MANOHAR LAL BANGIA AND OTHERS

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Fariad Singh Virk, Advocate for the petitioner.

GURBIR SINGH, J. (ORAL)

* * * *

CM-17083-CII-2023

This is an application under Section 151 CPC for placing on record Annexures P-2 to P-5.

Heard.

For the reasons mentioned in the application, the same is allowed.

Annexures P-2 to P-5 are taken on record.

Main case:

1. This civil revision is filed under Article 227 of the Constitution of India for setting aside the impugned order dated 28.08.2023 (Annexure P-1) passed by learned Addl. District Judge, Hissar vide which application filed by the petitioner for impleading him as a party was dismissed.

2. The brief facts as culled out from the petition are that the respondent No.1/plaintiff filed the suit for permanent injunction to restrain the respondent Nos. 2 to 7 from narrowing 18' wide road falling towards western side of plot No. 18-B allotted to the plaintiff and the same was got dismissed vide judgment and decree dated 03.12.2016 (Annexure P-2). Thereafter respondent No.1 filed an appeal against the said judgment and decree which is still pending and in the appeal, an application under Order 1 Rule 10 CPC was moved by the petitioner.

3. Learned counsel for the petitioner submits that his shop is situated on the public street where encroachment is made by the respondents. The petitioner is also having interest as he is also using the street. He further submits that the petitioner moved an application under Order 1 Rule 10 read with Section 151 CPC for impleading him as a party and learned Appellate Court has failed to consider the fact that the petitioner is necessary party as he is using the street in dispute.

4. I have heard the submissions made by learned counsel for the petitioner.

5. The suit was simply for permanent injunction and the same has been dismissed vide judgment and decree dated 03.12.2016. The appeal against the same is pending. The relief of permanent injunction is a relief of Personam and not a relief in Rem. The petitioner in appeal is neither necessary party nor proper party. If the petitioner is impleaded as party then denovo trial has to be conducted, which is against the basic principle of law.

6. In view of above, I do not find any illegality and irregularity in the order passed by learned Court below and is dismissed accordingly.
7. Pending applications, if any, shall also stand dispose of in view of the above-said order.

12.02.2024
renu

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>