

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

126

CR-19-2024 (O&M)
Date of Decision: 08.01.2024.

Mitu Devi ...Petitioner.

Versus

Ravinder Kumar and othersRespondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Ms. Neha Dewan, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 11.09.2023 passed by learned trial Court, vide which application under Order 1 Rule 10 CPC read with order 23 Rule 1A CPC for transposition of petitioner/ proforma defendant No.3 as co-plaintiff in the main suit titled Bimla Vs. Ravinder and others, was dismissed.

2. The present suit has been filed by the plaintiff/Bimla for declaration to the effect that the suit land to the extent of 28/48 share as detailed in the head note of the plaint, recorded in the name of respondent/ defendant No.2 situated at Village Bohal, Tehsil Bawani Khera, District Bhiwani, is ancestral Hindu joint property of the plaintiff, defendant No.2 and proforma defendant No.3 and therefore respondent/ defendant No.2 is not absolute owner of the suit land.

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3. Learned counsel for the petitioner has contended that the learned trial Court has failed to appreciate that the locus standi of both the plaintiff and the petitioner in the suit is same as both of them are coparceners in the Hindu joint family. They both have rights over the ancestral property and both have the right to injunct respondent/ defendant No.2 from alienating the said property and challenge the release deed. She has further submitted that as per the legal precedent and law under Order 1 Rule 10 CPC, the transposition should be allowed if it is important for proper adjudication to settle the dispute between the parties.

4. I have heard learned counsel for the petitioner and have gone through the relevant record.

5. I find that the impugned order is well reasoned order. It has been rightly observed that the conditions as envisaged in order 23 Rule 1A CPC are not fulfilled in the present case as it is not the case of the petitioner that plaintiff has abandoned or has any intention to withdraw the suit. Plaintiff is wife of defendant No.2 whereas the applicant is daughter of defendant No.2 and they have different cause of action and locus standi. Otherwise also proforma defendant can file her separate written statement and can lead her own evidence and as such no ground exists for her transposition as plaintiff.

6. Thus, there being no illegality or infirmity in the impugned order no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

7. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

08.01.2024.
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No