

(2011) 03 P&H CK 0314

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 598 of 2011 (O and M)

Bhiwani Sudhar and Vikas Samiti

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 03-03-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 151, 91
Constitution of India, 1950 — Article 227
Haryana Municipal Act, 1973 — Section 208

Citation : (2011) 03 P&H CK 0314

Hon'ble Judges : Ram Chand Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ram Chand Gupta, J.—The present revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 16.12.2010, Annexure P7, passed by learned Additional Civil Judge, Senior Division, Bhiwani, vide which application filed by the Petitioner under Order 1 Rule 10 of the CPC (hereinafter to be referred as the "Code") has been dismissed.

2. I have heard learned Counsel for the Petitioner and have gone through the whole record carefully including the impugned order passed by learned trial Court.

3. Facts relevant for the decision of present revision petition are that Notice u/s 208 of Haryana Municipal Act, 1973, was issued by Respondent No. 3 to Respondent No. 4 directing to remove illegal construction being raised, failing which Municipal Council would demolish the said illegal construction.

4. The said notice was challenged by Respondent No. 4 by filing a civil suit. During pendency of the civil suit, the present application under Order 1 Rule 10 read with Section 151 of the Code was filed by the Petitioner-Society mainly on the ground that Petitioner -society had earlier filed a suit No. 202 of 2010 in

public interest u/s 91 of the Code, seeking direction of Respondent Nos. 1 to 3 to take action against Respondent No. 4, which has been dismissed by learned trial Court vide impugned order Annexure P7, by observing as under:

Applicant Bhiwani Sudhar & Vikas Samiti has filed the present application through one Bajrang Singh claiming themselves as necessary party because they filed the present application in public interest and are necessary party but in the application itself, it is no where mentioned that in which capacity Bajrang Lal has filed the present application. It is no where mentioned that he is an office bearer in the said Bhiwani Sudhar & Vikas Samiti. In the application, it is no where mentioned that these are the grounds by which they are entitled to be impleaded as party. On being asked, learned Counsel for the Applicant fails to show any law or citation to the effect that they can be impleaded as a party in a civil suit. Plaintiff is master of his own suit. He cannot be compelled to implead any person as party against his wishes against whom he does not wish to litigate and seek any relief.

5. Admittedly, Respondent No. 4 was not a party to the previously instituted suit filed by Petitioner-Plaintiff. The matter in dispute is between Respondent No. 3-Municipal Council and Respondent No. 4. Notice for demolition of unauthorized construction has already been issued by Respondent No. 3 to Respondent No. 4, which has been challenged by Respondent No. 4.

6. Hence, in view of these facts, it cannot be said that present Petitioner-society is a necessary party to be impleaded in the present suit filed by Respondent No. 4.

7. Law is well settled in *Surya Dev Rai v. Ram Chander Rai and Ors.* 2004 (1) RCR (Civil) 147 that mere error of fact or law cannot be corrected in the exercise of supervisory jurisdiction by this Court. This Court can interfere only when the error is manifest and apparent on the face of proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law and a grave injustice or gross failure of justice has occasioned thereby.

8. In view of the aforementioned facts, it cannot be said that any illegality or material irregularity has been committed by learned trial Court in passing the impugned order and that grave injustice or gross failure of justice has occasioned thereby, warranting interference by this Court.

9. The present revision petition is hereby dismissed being devoid of any merit.