

(2001) 02 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2305 of 2000

Bhulla Ram

APPELLANT

Vs

Zile Singh

RESPONDENT

Date of Decision : 16-02-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 1 Rule 10(2)

Citation : (2001) 3 RCR(Civil) 673

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. J.K. Goel, for the Appellant; Mr. V.B. Aggarwal and Mr. Sultan Singh, AAG, for the Respondent

Final Decision : Dismissed

Judgement

R.L. Anand, J.—This is a Civil revision and has been directed against the order dated 5.5.2000 passed by Civil Judge (Jr. Division), Kaithal, who allowed the application under Order I, Rule 10 CPC filed by respondents No. 1 to 10 for the following reasons as given in para No. 2 of the impugned order :-

"2. Admittedly, the allotment of land to applicants in the year 1978 has not been denied by the plaintiffs, through the plaintiffs have been taken the plea that the same stands cancelled automatically having been allotted more than 20 years back. Therefore, in view of this, the applicants are the most effected persons from the decision of the suit, so the rule of dominns-litus is not applicable in the present case, consequently, the application filed by the applicants for impleading them in the array of defendants has merits and stand allowed. Now to come up on 15.5,2000 for filing amended title."

2. Some facts can be noticed in the following manner:

Plaintiff/petitioners filed a suit for permanent injunction against the State of Haryana and Collector Agrarian, Kaithal that they are owners and in possession of the land which was declared surplus illegally and it has no binding effect on

their rights. During the pendency of the suit, respondents No. 1 to 10 filed an application under Order 1 Rule 10 CPC mainly on the plea that the land which was declared surplus was allotted to them in the year 1978 and, therefore, they have derived right, title or interest in the same. Since the plaintiff/petitioners have not made them party, therefore, they are the necessary/proper parties.

3. Notice of the application was given to the plaintiff-petitioners, who denied the allegations and stated that since the alleged allottees did not make the payment and take the possession of the land within 7 days from the date of alleged allotment, therefore, no right, title or interest passed to them.

4. After hearing the parties, the learned trial court for the reasons given in para No. 2 of the impugned order allowed the application of respondents No. 1 to 10. Aggrieved by the order dated 5.5.2000, the present revision.

5. I have heard the learned counsel for the parties and with their assistance have gone through the record of the case.

6. The learned counsel for the petitioners vehemently submitted that since the allottees did not make the payment of the first installment within a period of 7 days from the date of allotment and also did not take the possession of the land, therefore they have no right, title or interest in the land. On the other hand, the learned counsel for the respondents No. 1 to 10 submitted that it has been admitted by the plaintiffs that the surplus area of the land was allotted to respondents No. 1 to 10 and the allottees will show before the trial Court that they have entered into possession of the land and that they have complied with the other conditions of allotment. Prima facie the allottees are the necessary/proper parties.

7. Order 1 Rule 10(2) CPC lays down as follows :-

"The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added."

8. The reading of the above would show that all person should be joined as plaintiff or defendant whose presence is necessary for the effective adjudication of the controversy in suit like all these persons on record so that the rights of the parties may be adjudicated for all times to come.

9. During the course of submissions the learned counsel for the petitioners fairly conceded that in the year 1978 allotment of the land was made to respondents No. 1 to 10, In this view of the matter the presence of the allottees before the trial Court is necessary. It is a matter of evidence which will be adjudicated by the civil Court itself as to whether the allottees have complied with the terms of

the allotment and whether they have taken the possession of the land within the stipulated period or not and if they have not complied with the terms what is the affect on the rights which were conveyed to the allottees under the order of allotment of surplus land. At thus juncture this Court is to be guided by the averments of the application moved under Order 1 Rule 10CPC. Prima facie the plea of respondents No. 1 to 10 make a triable case for them. In these circumstances, they were necessary/proper parties. I do not see any illegality in the impugned order and, therefore, the revision is hereby dismissed.

Nothing stated above shall amount to an expression of any opinion on the merits of the case. Directions are, however, given to the trial Court to expedite the trial.

10. Revision dismissed.