
(2014) 12 P&H CK 0182
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 3854 of 2013

Gram Panchayat	Vs	APPELLANT
Dera Baba Onkar Nath Prabandhak Committee and Others		RESPONDENT

Date of Decision : 04-12-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 1 Rule 10(2), Order 13 Rule 10

Citation : (2015) 2 RCR(Civil) 749

Hon'ble Judges : Bharat Bhushan Parsoon, J.

Bench : Single Bench

Advocate : S.P. Soi, Advocate, for the Appellant; Manoj Kumar, for the Respondent

Final Decision : Disposed off

Judgement

Dr. Bharat Bhushan Parsoon, J.?Petitioner Gram Panchayat herein was an applicant in an application under Order I Rule 10(2) CPC for seeking its impleadment in the suit which had been filed by Dera Baba Onkar Nath, respondent No. 1 herein, against the defendants, Bahadur Singh and five others, respondents herein, seeking a decree of permanent injunction restraining the defendants from interfering into the affairs of the managing committee of the said Dera etc. Stand of the applicant is that the applicant Gram Panchayat is owner arid had been managing the affairs of the property in dispute. It is also claimed that question of title was litigated in the courts but was decided in favour of the applicant Gram Panchayat on 3.6.2010 and possession of the dera was also delivered to it pursuant to the said success in the litigation. In the impugned order, there is a clear observation that the application has been filed in order to delay the proceedings and Joginder Singh alleged Member Panchayat had also not been authorized to file the said application which had suppressed material facts of dismissal of application under Order I Rule 10 CPC filed by Satnam Singh as an individual for impleadment as a party. His application had already been dismissed upto this Court; thus, there should not have been any fresh motion

under Order I Rule 10 CPC on behalf of the petitioner.

2. In a well written impugned order, the lower court considered all the attending circumstances and came to a correct conclusion that when no relief has been sought against the defendant Gram Panchayat and it is only a suit for seeking relief of permanent injunction against the respondent-defendants herein by non-applicant/plaintiff, which is a right in personam and not a right in rem, decision in the suit is not going to impact the applicant Gram Panchayat.

3. It remains a fact that the suit is pending since 6.2.2003 and somehow or the other has been delayed in its adjudication. Observations of the lower court in para 6 of the impugned order with approval are reproduced hereinbelow:--

"6. Now by way of this application the applicant is making the prayer that it be impleaded as party to the present suit. It is pertinent to mention here that if the Gram Panchayat is having any grievance against the present plaintiff or his having any cause of action against the present plaintiff, it can file a separate suit. The plaintiff is the master of his own suit, who is to decide that to whom make the defendant in his suit and from whom he is having a threat. Moreover the decision in the present case will not effect the rights of applicant as the relief of permanent injunction is a right in personam and not the right in rem. Further the suit is more than ten years old suit and is almost at the final stage. Impleadment of the applicant will further complicate the matter and it will amount to a denovo trial of the present case. So, I find no merits in the present application, hence the same is hereby dismissed."

4. Counsel for the petitioner has sought support from a decision of 2009(2) R.C.R. (Civil) 587: Civil Revision No. 143 of 2009 (Roshan Lal and others v. Mohit and others), decided by a Coordinate Bench of this Court on 13.1.2009. Facts of the case in hand being different, no support is available to the petitioner from the said judgment particularly when petitioner applicant Gram Panchayat had filed an independent suit in respect of the suit land and cause of action in the present suit is entirely different, does not impact or affect right, title or interest of the petitioner/applicant Gram Panchayat in any way.

5. However, it may be noticed in particular that while deciding the suit on merits, the lower court would go through all the documents of the previous litigation appended with the application of the petitioner Gram Panchayat filed under Order I Rule 10 CPC with the help of provisions of Order XIII Rule 10 CPC which for ready reference is appended as below:--

"10. Court may send for papers from its own records or from other Courts-

(1) The Court may of its own motion, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other suit or proceedings, and inspect the same.

(2) Every application made under this rule (unless the Court otherwise directs) be supported by an affidavit showing how the record is material to the suit in

which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

(3) Nothing contained in this rule shall be deemed to enable the Court to use in evidence any document which under the law of evidence would be inadmissible in the suit."

6. Effect of the said documents and material brought on record along with application under Order I Rule 10 CPC by the petitioner applicant would duly form part of adjudication to be ultimately made by the lower court. It may also be mentioned for focused attention of the court below that since the suit has become more than 10 years old, it should not take more than three months for its complete adjudication on merits, even if the proceedings are to be conducted on day to day basis, if the situation so demands. With these observations, the petition stands disposed of.