

(2012) 02 P&H CK 0219
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 759 of 2012 (O and M)

Hoshiar Singh

APPELLANT

Vs

Tehsildar (Sales) and others

RESPONDENT

Date of Decision : 06-02-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Constitution of India, 1950 — Article 227

Citation : (2012) 02 P&H CK 0219

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

L.N. Mittal, J.

C. M. No. 3027-C-II of 2012 :

1. Allowed as prayed for.

Main Case :

2. Plaintiff Hoshiar Singh has filed this revision petition under Article 227 of the Constitution of India assailing order dated 12.12.2011 (Annexure P-5), passed by learned Civil Judge (Senior Division), Sonapat, thereby allowing application (Annexure P-4) moved by respondents no.3 to 7 herein under Order 1 Rule 10 of the CPC (in short - CPC) and thereby impleading respondents no.3 to 7 as party defendants to the suit instituted by petitioner against respondents no.1 and 2 only.

3. The petitioner's case is that he is owner in possession of the suit property. He also claimed adverse possession thereof. Petitioner sought injunction against respondents no.1 and 2/defendants from interfering in possession of the plaintiff-petitioner over the suit property and from demolishing the same and from dispossessing him therefrom except in due course of law.

4. Respondents no.3 to 7, in their application, alleged that they are owners in possession of their respective shops in the shopping complex. Plaintiff is in unauthorized possession of the suit land, which is left for green belt as well as parking area of the shopping complex. Accordingly, respondents no.3 to 7 claimed to be necessary party to the suit. Their said application has been allowed by the trial court in spite of resistance by the plaintiff.

5. I have heard learned counsel for the petitioner and perused the case file.

6. Counsel for the petitioner vehemently contended that some other shopkeepers of the same shopping complex had filed suit, in which they failed to prove that the disputed site has been left for green belt or parking area. However, this contention does not help the petitioner because admittedly, respondents no.3 to 7 herein were not party to the said suit. On the other hand, it is undisputed that respondents no.3 to 7 have their shops in the shopping complex in question. Even after being impleaded, they have to prove that the disputed site is meant for green belt and parking area. Mere impleadment of respondents no.3 to 7 as party to the suit does not mean that their version in this regard has been accepted. On the other hand, plaintiff-petitioner had earlier filed suit against Municipal Committee, wherein plaintiff-petitioner was held to be in unauthorized possession of the suit property.

7. In view of the aforesaid, it is apparent that respondents no.3 to 7, who have their shops in the shopping complex, are proper and necessary party to the suit because their interest would be adversely effected if the plaintiff-petitioner succeeds in the suit. On the other hand, the plaintiff-petitioner would not suffer any loss or injury if the suit is also contested by respondents no.3 to 7. The plaintiff-petitioner can succeed only if he proves his case, even if respondents no.3 to 7 are party defendants. On the other hand, if respondents no.3 to 7 are not impleaded as party defendants in the suit, they may suffer loss and injury if the plaintiff's suit is decreed, adversely effecting their rights.

8. For the reasons aforesaid, I find no merit in the instant revision petition. Impugned order of the trial court does not suffer from any perversity, illegality or jurisdictional error so as to warrant interference by this Court in exercise of power of superintendence under Article 227 of the Constitution of India. The revision petition is accordingly found to be meritless and is dismissed in limine. However, nothing observed herein shall have any bearing on the merits of the suit.