

(1991) 02 P&H CK 0093
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2491 of 1989

Surja and another

APPELLANT

Vs

Ramji Lal and others

RESPONDENT

Date of Decision : 11-02-1991

Acts Referred:

Citation : (1991) PLJ 241 : (1991) 2 RRR 236

Hon'ble Judges : J.V.Gupta;CJ., J

Advocate : S.K. Jain, Advocate., Advocates for appearing Parties

Judgement

J.V. Gupta, CJ.

1. This revision petition is directed against the order of the trial Court dated 27th May, 1989, whereby application under Order 1 Rule 10, Code of Civil Procedure (hereinafter called "the Code"), filed on behalf of the petitioners Surja and Chandu, for impleading them as parties to the suit was dismissed.
2. The plaintiffs filed the suit for declaration to the effect that they were the owners in possession of the agricultural land and also for the grant of the permanent injunction restraining the defendants from interfering with their possession and cultivation. In that suit, the petitioners Surja and Chandu made an application under Order 1 Rule 10 of the Code for impleading them as defendants in the suit primarily on the ground that with respect to the suit land they had already a decree in their favour in this suit filed by the plaintiff which was maintained upto the High Court in the regular second appeal. The application was contested on behalf of the plaintiffs. The trial Court took the view that it was a settled law that the person who incidentally is affected by the adjudication, he cannot be allowed to joined in the suit only with a view to avoid multiplicity of the suit. As a result, the application was dismissed. According to the petitioners in R.S.A. No. 240 of 1973, decided on February 19, 1982, the suit filed by the present plaintiffs was dismissed by the trial Court on January 5, 1967, which dismissal was upheld by the lower appellate Court and the High Court in the above said regular second appeal. Thus, according to the petitioners,

the present suit as such was not maintainable and in any case, they were necessary/proper parties to the litigation to avoid multiplicity of proceedings.

3. After going through the impugned order, I find that the trial Court has acted illegally and with material irregularity in the exercise of its jurisdiction.

4. If the petitioners have already obtained a decree in their favour against the present plaintiffs, then they are necessary/proper parties to the suit in order to avoid multiplicity of proceedings. Consequently, this revision petition succeeds. The impugned order is set aside and the application under Order 1 Rule 10 of the Code is allowed with no order as to costs. The parties are directed to appear in the trial Court on March 4, 1991. In order to expedite the hearing of the suit, it is directed that the parties will lead evidence at their own responsibility for which dasti summons be given, if so desired, as contemplated under Order XVI Rule 7A of the Code.