

(2011) 08 P&H CK 0036

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 4976 of 2011 (O and M)

Vijender and others

APPELLANT

Vs

The State of Haryana and another

RESPONDENT

Date of Decision : 18-08-2011

Acts Referred:

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

Citation : (2011) 08 P&H CK 0036

Hon'ble Judges : Ram Chand Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ram Chand Gupta, J.

C.M. No. 19825-CII of 2011

1. Application is allowed subject to all just exceptions.

Civil Revision No. 4976 of 2011

2. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 11.5.2011, Annexure P4, passed by learned Additional Civil Judge, (Senior Division), Jhajjar, vide which application filed by present petitioners under Order I Rule 10 of the CPC (hereinafter to be referred as the 'Code') for impleading them as party was dismissed.

3. I have heard learned counsel for the petitioners and have gone through the whole record carefully including the impugned order passed by learned trial Court.

4. Facts relevant for the decision of present revision petition are that respondent No. 2-plaintiff filed a suit for permanent injunction restraining respondent-State from interfering in his possession over the suit land, as described in para No. 2 of

the plaint. It has been contended that though he is co-owner in specific possession of the land in dispute, however, Sub Divisional Magistrate, Beri, had issued notice to him and his son directing them to appear before him on 11.2.2011 and raised a threat to dispossess them forcibly. Present application has been filed by petitioners-applicants under Order I Rule 10 of the Code for impleading them as party on the plea that they alongwith other beswedar of Pana Chhajiyan are owners of the property in dispute and the same was given to the State Government for running a school. The application has been dismissed by learned trial Court vide impugned order by observing that it is a suit for mere injunction and respondent -plaintiff has not claimed any relief against the present petitioners-applicants.

5. It is not a suit for declaration. Respondent-plaintiff is dominus litis. He is having no threat of interference in his alleged possession from the present petitioners-applicants. Hence, it cannot be said that petitioners-applicants are necessary parties to be impleaded in this case.

6. 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 or that a grave injustice or gross failure of justice has occasioned thereby, warranting interference by this Court.

7. Moreover, law has been well settled by Hon"ble Apex Court in Surya Dev Rai Vs. Ram Chander Rai and Others, , that supervisory jurisdiction is not available to be exercised for indulging in re-appreciation or evaluation of evidence or correcting the errors for drawing inference like a Court of appeal. It has been observed as under:-

Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.

8. Hence, the present revision petition is, hereby, dismissed being devoid of any merit.