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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-2590-2024 (O&M)
Date of decision: 04.02.2025

Malkit Singh

...Petitioner

Versus

Naib Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Hitesh Verma, Advocate for the petitioner.

Mr. S.S. Bhinder, Advocate and
Mr. D.S. Bhinder, Advocate and
Mr. S.S. Sekhon, Advocate and
Ms. Indira, Advocate for respondent No.1.

Mr. J.S. Gill, Advocate for respondent Nos.2 to 4.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 14.02.2024 (Annexure P-8) passed by the Civil Judge (Junior Division), Barnala, vide which the Court had dismissed the application filed under Order 1 Rule 10 CPC dated 05.09.2023 (Annexure P-7) moved by the petitioner for impleading him as a defendant in civil suit dated 12.07.2023 (Annexure P-5).

2. Learned counsel for the petitioner has submitted that in the present case, respondent No.1 had filed a suit for permanent injunction for restraining defendant No.4 i.e., Jagroop Singh (present respondent No.5)



from removing or transferring, in connivance with defendant Nos.1 to 3 i.e., respondent Nos.2 to 4 in the present revision petition, the motor electricity connection which was in the name of Bhager Singh. It is submitted that in the said suit, the petitioner had filed an application under Order 1 Rule 10 CPC for impleading him as a party on the plea that the electricity connection was in the name of Bhager Singh son of Maha Singh and after his death, he was succeeded by his heirs i.e., Bhajan Singh, Jeet Singh and Ranjit Kaur. It was further averred that the electricity motor connection had been transferred by Ranjit Kaur and Bhajan Singh in favour of the plaintiff, Malkit Singh and Jagroop Singh and that the present suit had been filed in connivance with defendant No.4.

3. It is argued that the said electricity motor connection was installed in the share of the land which is in possession of the present petitioner and the same has been removed by the plaintiff/respondent No.1 from the said land and has been put in the land of which the plaintiff is in possession. It is submitted that in case the petitioner is impleaded as a party, he would resist the claim of the plaintiff and would file a counter claim for declaration and also for mandatory injunction on the abovesaid plea. It is further submitted that the said application filed under Order 1 Rule 10 CPC has been illegally rejected by the trial Court vide order dated 14.02.2024 and that the petitioner is a necessary party and thus, is required to be impleaded in the case for full and final adjudication of the case. In support of his arguments, he has relied upon the judgment passed by the Coordinate Bench of this Court in case bearing CR-2598-2021 titled as *“Vishal Vs. Pritam Lal Kataria and another”*, decided on 09.11.2021.



4. Learned counsel for the respondents, have opposed the present revision petition and have submitted that the impugned order has been passed in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed.

5. This Court has heard learned counsel for the parties and has perused the paper book and finds that the impugned order is in accordance with law and deserves to be upheld and the present revision petition is meritless and deserves to be dismissed for the reasons detailed hereinafter.

6. It is a matter of settled law that the plaintiff being dominus litis has a right to institute the case against the party against whom he wishes to contest and a person who is neither a necessary party nor a proper party and against whom relief is not being claimed, is not to be made a party. It is further a matter of settled law that the judgment passed in the case, more so, in case of permanent injunction is only binding on the parties concerned and is not binding on the person who has not been made a party.

7. In the present case, respondent No.1 had filed a suit for permanent injunction for restraining defendant No.4 i.e., Jagroop Singh (present respondent No.5) from removing or transferring the motor electricity connection which was stated to be installed in the field of the plaintiff. A perusal of the plaint (Annexure P-5) would show that the restraint order is sought against defendant No.4, more so, from transferring the electricity connection to some other place, although, it has further been stated that defendant No.4-Jagroop Singh be restrained from removing or transferring the electricity connection in connivance with defendant Nos.1 to 3. The said suit is based on the fact that the electricity connection is



sought to be illegally transferred to another place by defendant No.4 after getting it disconnected. In the said suit, which is a simplicitor suit for injunction, only question that arises is as to whether on the date of filing of the suit, the electricity connection was in the land which is in the occupation of the plaintiff and as to whether defendant No.4 was trying to get the same removed. Even the decree if passed, would be to the effect that defendant No.4 (Jagroop Singh) is restrained from removing or transferring the same to some other land. It is surprising that in such a suit, the present petitioner, who as per his version has a completely separate cause of action, is wanting to be impleaded as a party. Once the plaintiff being dominus litis has chosen to injunct a particular person then it does not lie in the mouth of another person to state that the plaintiff should seek relief against the said person also. The application moved for impleadment thus, is completely misconceived and has been rightly dismissed by the trial Court.

8. The argument raised by learned counsel for the petitioner to the effect that the said electricity connection was earlier in the field of the petitioner and was subsequently removed by the plaintiff from the said land of the petitioner, even if taken to be true on its face value, would at best give the petitioner a separate cause of action to institute independent proceedings. It would be relevant to note that the above said plea raised on behalf of the petitioner before this Court is not reflected in the averments made in the application for impleadment filed under Order 1 Rule 10 CPC (Annexure P-7). It is nowhere stated in the said application that the electricity connection was running in the field which is in the occupation of the petitioner and the same was thereafter, removed/disconnected and



thereafter was installed in the land of the plaintiff. On the contrary, the plea taken in the application under Order 1 Rule 10 CPC is to the effect that the electricity connection was in the name of Bhager Singh and he was survived by three legal heirs i.e., Bhajan Singh, Jeet Singh and Ranjit Kaur and further, Ranjit Kaur and Bhajan Singh had transferred the said electricity connection through an affidavit dated 29.06.2022 in favour of the plaintiff as well as applicant-Malkit Singh and Jagroop Singh. Moreover, there is nothing on record to show that the electricity connection was actually transferred in the name of the petitioner or that the same was ever installed in the land which was in occupation of the petitioner. In fact, even khasra number of the land, which is stated to be in possession of the petitioner where the said electricity connection is stated to be installed, has not been mentioned either in the application or in the petition. In the said circumstances, it is apparent that the petitioner is neither a necessary party nor a proper party to be impleaded in the suit for permanent injunction.

9. Moreover, in case the petitioner is impleaded on the basis of the averments made before this Court then it is apparent that the issues which would then be required to be adjudicated in the simplicitor suit for permanent injunction, would be completely different from the issues which are to be adjudicated in the present suit. In case the petitioner has any cause of action with respect to the electricity connection, then, it is open for him to institute his independent proceedings and the trial, in the suit for permanent injunction in which no relief is sought against the petitioner, cannot be delayed by impleading the present petitioner as a party.

10. The judgment in the case of *Vishal* (Supra) relied upon by the



learned counsel for the petitioner does not in any way further the case of the petitioner, inasmuch as, in the said case, it was the case of the plaintiff therein that some unknown persons had raised the claim of ownership over the suit property and it was further his case that the plaintiff-petitioner therein had got published general information in the Jag Marg newspaper on 31.07.2019 vide which the registered owner of the suit property was called along with the relevant documents of ownership of the suit property, however, no one had come to claim the ownership over the suit property and it was further pleaded by the petitioner-plaintiff therein that respondent No.1-defendant (therein) in collusion with the police had started extending threats to dispossess the plaintiff-petitioner therein. It was in the said background that the defendant/respondent No.1 therein had filed his written statement raising the preliminary objection to the effect that the wife of defendant-respondent No.1 therein had purchased the suit property vide registered sale deed dated 12.04.1999 and that his wife had executed a registered Will in favour of her daughter Smt. Meenakshi and that on the basis of the said registered document, Smt. Meenakshi had become the owner of the property and thus, an application for impleading the said Smt. Meenakshi under Order 1 Rule 10 CPC was filed and the trial Court in the said case had allowed the said application and the High Court while exercising its powers under Article 227 of the Constitution of India had found that there was no error in the exercise of jurisdiction of the trial Court. It was also recorded in the said case that the plaintiff-petitioner therein was not able to state as to on what basis he was in possession of the suit property and as to what was the locus standi of the plaintiff-petitioner



therein over the suit property and also could not deny that the shop in question had been purchased by the wife of defendant No.1 therein by virtue of a registered sale deed and had further devolved the suit property upon her daughter Smt. Meenakshi by virtue of a registered Will. The facts of the said case are completely distinguishable and would not apply to the facts of the present case.

11. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that the impugned order is in accordance with law and this Court while exercising its powers under Article 227 of the Constitution of India does not find it fit to interfere in the said order and accordingly, the present petition is dismissed.

12. Needless to say that the observations made in the present order are only for the purpose of deciding the present revision petition and would not be construed as an expression of final opinion on the merits of the case or in the proceedings to be instituted by the petitioner, if any, in accordance with law.

13. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

04.02.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No