



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(116+277)

CM-12118-CII of 2024 in/and  
CR No. 5750 of 2023 (O&M)  
Date of Decision: 03.04.2025

Surjeet Singh

...Petitioner

Versus

Iqbal Singh and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr.N.S.Dandiwal, Advocate  
for the petitioner.

Mr. J.S.Mundi, Advocate  
for Mr. A.S. Pannu, Advocate  
for respondent No.1.

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**VIKRAM AGGARWAL, J (ORAL)**

The present revision petition is preferred under Article 227 of the Constitution of India against order 02.08.2023, passed by the Court of learned Additional Civil Judge (Sr. Division), Nihal Singh Wala, District Moga, vide which the application filed by present petitioner under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (for short 'CPC') for being impleaded as a defendant was dismissed.

2. The facts, as emanating from the revision petition, are that respondent No.1 instituted a suit for separate possession by way of partition to the extent of 1/5<sup>th</sup> share of four properties (fully described in the plaint). The plaintiff/respondent No.1-Iqbal Singh and the defendants Raghbir Singh Dhaliwal, Baljinder Singh Dhaliwal, Harbans Singh Dhaliwal and Surinder Singh Dhaliwal are all sons of Thana Singh. As per the suit, after the death of Sh. Thana Singh, his sons had inherited the estate of Thana Singh in equal

shares i.e., 1/5<sup>th</sup> share each. Since the properties had not been partitioned, the suit was filed.

3. The suit was opposed by the defendants by way of written statement (Annexure P-2). One of the preliminary objections raised in the written statement was that the plaintiff had concealed material facts from the Court to the effect that the property mentioned in Column B was the self acquired property of the defendants, the same having been purchased by them from one Surjeet Singh son of Bhag Singh.

4. On the basis of the said averment and having come to know about the suit, the present petitioner i.e., Surjeet Singh son of Bhag Singh moved an application under Order 1 Rule 10 CPC for being impleaded as a respondent in the suit stating that in-fact he was the owner of the property mentioned at point B in the plaint and that he had never sold the same to the defendants. The application was opposed by the plaintiff.

5. By way of the impugned order, the said application was dismissed leading to the filing of the present revision petition.

6. I have heard the submissions made by learned counsel for the parties.

7. Learned counsel for the petitioner has strenuously urged that since the property at point B belongs to him, he would be a necessary party to the suit. He has referred to the preliminary objection raised in the written statement and has submitted that if he is not impleaded as a party, his interests shall be gravely prejudiced.

8. *Per contra*, learned counsel representing the respondent submits that there is no illegality in the impugned order and that it was for the plaintiff, being the *dominus litis*, to decide as to who was to be

impleaded as a party/defendant. He submits that only on the basis of the sole averment made in the written statement, the petitioner moved the application for being impleaded as a defendant. He submits that no relief has been claimed against the defendant and that in any case, it would be open for him to initiate other proceedings.

9. I have considered the submissions made by learned counsel for the parties.

10. As regards the issue of a person being impleaded as a defendant in a suit, the law is well settled to the effect that it is for the plaintiff, who is the '*dominus litis*' of the case to decide as to who is to be impleaded as a party. Still further, the only basis upon which the petitioner claims to be impleaded as a defendant is the preliminary objection raised in the written statement that the defendants had purchased the property mentioned at point B from the petitioner, whereas it is the stand of the petitioner that he had never sold the property to the defendants.

11. The averment raised by the defendants shall have to be proved by them by leading evidence. In case, they are unable to prove the same, necessary consequences shall follow. Still further, no relief has been claimed against the petitioner and in any case, it is always be open to the petitioner to institute any separate proceedings if so made out and if so advised.

12. The learned trial Court dealt with the matter in accordance with law and rejected the prayer made by the petitioner while placing reliance upon the judgment in the case of **Thomson Press (India) Ltd., Vs. Nanak Builders & Investors Pvt. Ltd., AIR 2013 Supreme Court 2389.**

13. I do not find any illegality or jurisdictional error in the order passed by the learned trial Court, warranting interference.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

**(VIKRAM AGGARWAL)**  
**JUDGE**

**April 03, 2025**  
Rekha

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No