

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****137****CR-2009-2025(O&M)****Date of decision: 01.04.2025****Rajveer Singh****...Petitioner(s)****Vs.****Rajesh Benda & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sandeep Kumar Yadav, Advocate
Ms. Sangeeta Yadav, Advocate
Ms. Deepika, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present petition under Article 227 of the Constitution of India has been filed by the plaintiff seeking setting aside of order dated 04.03.2025 passed by learned Civil Judge, Junior Division, Hisar vide which application filed by respondents No.4 to 8 under Order 1 Rule 10 CPC has been allowed and respondents No.4 to 8 have been impleaded as defendants No.4 to 8.

2. Learned counsel for the petitioner/plaintiff vehemently submits that the petitioner had filed a suit for permanent injunction. Relief was sought by the petitioner only against the original defendants/respondents No.1 to 3 herein. It is submitted that no relief was



sought by the petitioner against the respondents No.4 to 8. As such, they could not have been impleaded.

3. It is further submitted that the respondents No.4 to 8 had filed the application under Order 1 Rule 10 CPC at the instance and in collusion with defendant No.3; as none of the defendants No.4 to 8 have any right in the suit property and they no have right to dispute the validity of Will in question; and as it is settled law that plaintiff is master of his suit. Moreover, Will No.49 dated 07.05.2018 is a registered document and same has already been challenged by defendant no.3 by filing counter claim.

4. It is further submitted that respondents No.4 to 8 had sought impleadment only on the ostensible ground the defendant No.3 is not mentally capable of facing the litigations being 100% disabled. It is submitted that however, the said fact is untrue as respondent No.3 had duly filed a written statement in the suit, as also counter claim thereto. Further in the application (Annexure P4), there is no mention made by the respondents No.4 to 8 as to how and in which manner interest of defendant No.3 is being taken away by the plaintiff especially when defendant No.3 has filed written statement and is contesting the suit. It is submitted that therefore, the application has been filed by respondents No.4 to 8 only to achieve some ulterior motive and to delay the suit of the plaintiff. It is accordingly prayed that the impugned order be set aside.

5. No other argument is made on behalf of the petitioner.



6. I have heard learned counsel for the petitioner and perused the case file in great detail.

7. Perusal of record of the case shows that the plaintiff had filed a Civil Suit (Annexure P1) dated 'Nil' for permanent injunction (prohibitory and mandatory) restraining the defendants from entering, interfering into peaceful possession of the plaintiff and also from harassing, humiliating and threatening the plaintiff and forcibly dispossessing him from the ground floor of the house No.64, situated at Defence Colony, Hisar of which the plaintiff is owner in possession in equal share with defendant No.1 on the basis of registered Will bearing No.49 dated 07.05.2018 executed and registered by their father namely Sher Singh @ Shera in his favour, under the provisions of Specific Relief Act, on the basis of evidence of every kind.

8. It may be pointed out that the plaintiff and defendants No.1 and 3 are real brothers and defendant No.2 is near relative of the parties and is residing on the first floor of the house in question. In the said Civil Suit, the defendant No.3 had filed the written statement dated 13.09.2019 along with counterclaim (Annexure P3). Respondents No.4 to 8 had filed application under Order 1 Rule 10 dated 30.07.2019 (Annexure P4) seeking impleadment in the suit of the petitioner to which the petitioner had filed reply dated 13.09.2019 (Annexure P5).



9. A perusal of the application dated 30.7.2019 (Annexure P4), shows that the respondents No.4 to 8 are also daughters of Sher Singh/father of the petitioner. It was pleaded that as such they were necessary parties as they also had right and interest in the suit property. It is further stated in the application, that the Will relied upon by the petitioner was based on fraud caused by coercion, undue influence and was made under deep-rooted conspiracy. The said respondents also sought impleadment on the ground that interest and benefit of defendant No.3 was required to be protected as he was incapable of independently facing the present litigation being 100% disabled.

10. Furthermore, defendant No.3 had filed a counterclaim wherein he has sought a declaration (Annexure P3) that the Will dated 07.05.2018 executed by Sher Singh in favour of the petitioner was null and void. Keeping in view the above facts, it is clear that respondents No.4 to 8 were also necessary parties to the lis as their rights would also be directly affected while no prejudice would be caused to the petitioner by the impleadment of the said respondents.

11. In view of the above, no ground is made out to interfere in the impugned order. Present petition accordingly stands **dismissed**.

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

01.04.2025

Sunena

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge