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(1988) 09 P&H CK 0015

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 676 of 1988

Gulshan Kumar Datta		APPELLANT
	Vs	
Jasbir Nayyar and another		RESPONDENT

Date of Decision: Sept. 23, 1988

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 1 Rule 10

Hon'ble Judges: D.V. Sehgal, J

Bench: Single Bench

Advocate: R.P. Bali, for the Appellant; Arun Jain, for the Respondent

Final Decision: Allowed

Judgement

D.V. Sehgal, J.

Jasbir Nayyar plaintiff respondent No. 1 filed a suit in the trial court at Jalandhar for permanent injunction restraining the Municipal Corporation, defendant-respondent No. 2 from interfering in any way in his possession of house No. H-180, situated in Maqdumpura Jalandhar, the boundaries of which were described in the head note of the plaint.

2. The petitioner filed an application under Order 1 Rule 10 of CPC for being impleaded as a defendant to the suit. He stated that he is the owner in possession of house No. E.S. 190, Maqdumpura, Jalandhar. There is a municipal street in front of his house for ingress and egress to the house. Inadvertently a part of the said municipal street was assigned evacuee property No. 180 measuring 29 square yards and 29 square feet by the Rehabilitation Department and was erroneously allotted to respondent No. 1 on December 13, 1984 for Rs. 4000/-. The bid in favour of respondent No. 1 was however not confirmed by the Sub Divisional Officer (Civil) cum-Settlement Commissioner. He, thus, pleaded that respondent No. 1 had no right, title or interest therein. He further complained that respondent No. 1 by

misrepresentation had obtained an interim injunction in the suit regarding the said part of the street. He further stated that he shall supply valuable information/evidence for proper and effective adjudication of the suit. He added that his interests shall be affected and, therefore he is a proper party to the suit and should be impleaded as such. This application has however, been dismissed by the learned trial court vide its order dated July 28, 1987. The petitioner being aggrieved against the same has filed the present revision petition.

3. To my considered view, the learned trial court was wrongs in reaching at the conclusion that the petitioner is neither a necessary nor a proper party to the suit and that the matter in dispute can be conveniently decided without his presence. The petitioner is a resident of Maqdumpura. His house is in the same street of which the property in dispute is claim to be a part even by the Municipal Corporation, respondent No. 2. His right of ingress and egress through the said street shall, therefore, be affected in case the suit brought by respondent No. 1 succeeds. He has, therefore, a direct interest in the litigation and he is a proper party to the suit. It is to be noted that public interest litigation has now come to stay. Even a person having no direct interest can come to the Court complaining that ingress and egress through a public street has been obstructed by a citizen. He can claim relief from the court to restrain the offending party from interfering with the passage through the public street. His locus standing cannot be challenged on the ground that his personal rights are not affected by the action of the offending party, in the present case, as already observed, the petitioner has a direct interest in the litigation. He has offered to provide valuable information/evidence, which would prove that the property in dispute is a part of the public street. It is, therefore, in the interest of justice that he should be allowed to be impleaded to the suit as a proper party.

4. I, therefore, allow this revision petition, set aside the order of the trial court dated July 28, 1987 and order that the petitioner be impleaded as a defendant to the suit. I, however, leave the parties to bear their own costs. The parties, through their counsel, are directed to appear before the learned trail court on October 12, 1988.