courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 08/11/2025

(2013) 10 P&H CK 0309

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 6137 of 2013

Maharana Pratap Nagar Kalyan Samiti (Regd.) and Others	APPELLANT
Vs	
Smt. Krishna Devi and Others	RESPONDENT

Date of Decision: Oct. 8, 2013

Citation: (2014) 173 PLR 822

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: Kulbhushan Sharma, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

In this revision petition filed under Article 227 of the Constitution of India, challenge is to order dated 07.08.2013 (Annexure P-1), passed by the trial court, thereby dismissing application (Annexure P-2) filed by the petitioners herein under Order 1 Rule 10 of the CPC (in short-CPC) for impleading them as party to the suit, which has been instituted by respondent no. 1-plaintiff against proforma respondents no. 2 and 3 i.e. Municipal Council and its Secretary as defendants vide plaint (Annexure P-5). The plaintiff had alleged in the suit that she is owner in possession of the suit plot comprised of Khasra No. 2706/2, having purchased it vide sale deed 06.03.2006 and defendants have sanctioned building plan of the plaintiff for constructing house in the suit plot vide resolution dated 02.12.2011 and the plaintiff has raised part construction, but now, the defendants have issued notice dated 14.03.2012 u/s 209 of the Haryana Municipal Act, 1973, requiring the plaintiff to demolish the construction already raised and requiring her not to raise further construction. The plaintiff in the suit has challenged the said action of the defendants and has sought injunction against the defendants.

2. Petitioners, in their application (Annexure P-2), stated that the plaintiff is raising construction on passage meant for residents of petitioner no. 1-Samiti. The said passage was gifted to petitioner no. 1-Samiti, and therefore, petitioners are necessary party to the suit.

3. The application was opposed by the plaintiff by filing reply (Annexure P-3). Averments made in the application were controverted.

4. Learned trial court, vide order (Annexure P-1), has dismissed the application (Annexure P-2) filed by the petitioners, who have, therefore, filed this revision petition to challenge the said order.

5. I have heard counsel for the petitioners and perused the case file.

6. Counsel for the petitioners reiterated the version of the petitioners mentioned in application (Annexure P-2), as noticed hereinbefore. Reliance has also been placed on two judgments of this Court in the cases of Rajiv Goel Vs. Sohan Lal Khosla and Another, and Smt. Shayama Jain Vs. Smt. Savitri Devi and Others to contend that persons from the neighbourhood may also be impleaded as party to the suit, where injunction is sought against municipality regarding passage/street. It was also argued that earlier the plaintiff had filed suit against the petitioners, challenging the gift deed (Annexure P-4), but the said suit was withdrawn by the plaintiff at the stage of rebuttal evidence and arguments.

7. I have carefully considered the matter.

8. In this suit, the plaintiff has challenged only notice issued by the defendants u/s 209 of the Haryana Municipal Act, requiring the plaintiff to demolish the construction raised by her and requiring her not to raise any further construction, although according to the plaintiff, defendants have already sanctioned her building plan for raising construction in the suit plot. In these circumstances, petitioners cannot be said to be proper or necessary party to the suit. On the contrary, if the petitioners want to assert their right on the alleged passage, they may initiate appropriate steps by filing suit or otherwise, for asserting the said right. Here, it may be mentioned that according to the plaintiff, the suit plot is part of Khasra No. 2706/2, whereas according to the petitioners, their disputed passage is part of Khasra No. 2705 min. Thus, it appears that the petitioners are raising dispute regarding demarcation of the land of the plaintiff comprised of Khasra No. 2706/2 and the alleged passage of the petitioners comprised of Khasra No. 2705 min. The said dispute cannot be resolved in the instant suit, which pertains to demolition notice issued by the Municipality. To resolve the said dispute, petitioners may file suit, if so advised, but they cannot be said to be proper or necessary party to the instant suit.

9. Counsel for the petitioners also contended that the plaintiff intends to obtain decree in the suit in collusion with employees of defendant no. 1-Municipal Council. However, even if any such decree is obtained, the same shall not be binding on the petitioners and shall not effect their rights because they are not party to the suit. Judgments in the cases of

Rajiv Goel and Shyama Jain (supra), cited by counsel for the petitioners, are distinguishable on facts. For the reasons aforesaid, I find that application (Annexure P-2), filed by the petitioners, has been rightly dismissed by the trial court. There is no perversity, illegality or jurisdictional error in the impugned order of the trial court so as to require interference at the hands of this Court in exercise of power of superintendence under Article 227 of the Constitution of India. The revision petition is meritless and is accordingly dismissed in limine, without meaning to express any opinion on rights of the parties.