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MALKIT SINGH v. KEWAL SINGH,(2022-1)205 PLR 471

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice H.S. Madaan.

MALKIT SINGH - Petitioner,

Versus

KEWAL SINGH and others - Respondents.

CR-2252-2021 and CR-2260-2021

Civil Procedure Code, 1908 (V of 1908) Order 1, Rule 15, Order 6 Rule 17 - Amendment of Plaintiff - Initially the plaintiff had filed a suit for grant of permanent injunction against the private defendants on the allegations that they were threatening to dig up the water pipes buried by him under the road for the purpose of irrigation of his fields - There is no mention in the plaint with regard to Punjab Mandi Board cancelling the permission granted to the plaintiff or threatening to remove those pipes - Nature of suit is also sought to be changed by turning it into a suit for declaration and permanent injunction instead of the original suit for permanent injunction only - The applications under Order 1 Rule 10 CPC and Order 6 Rule 17 CPC could not be allowed under the circumstances - Trial Court was fully justified in dismissing both the application.

Mr.D.S. Gill, for the petitioner.

H.S. Madaan, J. - (7th October, 2021) - Case taken up through video conferencing.

2. Vide this order, I shall dispose of two civil revision petitions i.e. CR-2252-2021 and CR-2260-2021 filed on behalf of petitioner Malkit Singh.

3. CR-2252-2021 has been filed for setting aside of impugned order dated 2.9.2021 passed by learned Additional Civil Judge (Sr.Divn.), Jaitu, whereby application filed by the petitioner under Order 1 Rule 10 CPC read with Section 151 CPC for impleading Punjab Mandi Board through its Executive Engineer, Faridkot and Sub Divisional Officer (SDO), Punjab Mandi Board, Jaitu in the array of defendants had been dismissed and CR-2260-2021 has been filed by the petitioner for setting aside of the impugned order dated 2.9.2021 passed by learned Additional Civil Judge (Sr.Divn.), Jaitu, whereby an application filed by the petitioner under Order 6 Rule 17 CPC read with Section 151 CPC for amendment of plaint was dismissed.

4. Briefly stated, the facts of the present case as can be gathered from the record are that plaintiff Malkit Singh had brought a suit against defendants Kewal Singh, Ishar Singh and Dev Singh, all residents of village Jhakhar Wala, Tehsil Jaitu, District Faridkot seeking permanent injunction restraining the defendants from uprooting/digging the underground water pipes laid beneath the road to carry the water to the fields of plaintiff situated at village Jhakhar Wala, Tehsil Jaitu, District further from interfering in the passing of water through these pipes. According to the plaintiff he had buried the pipes beneath the road after getting due permission from Punjab Mandi Board, Jaitu. In the whole plaint, there were allegations against the defendants only. After filing of the suit, the plaintiff moved an application under Order 1 Rule 10 PCC for impleading Punjab Mandi Board through its Executive Engineer, Faridkot and Sub Divisional Officer (SDO), Punjab Mandi

Board, Jaitu for the reason that the permission granted to the plaintiff by Punjab Mandi Board was allegedly cancelled vide order dated 25.8.2020 passed by SDO Mandi Board, which action is illegal, null and void. He had also moved another application under Order 6 Rule 17 read with Section 151 CPC for amendment of the plaint so as to seek a declaration to the effect that the alleged order of SDO, Punjab Mandi Board dated 25.8.2020 is illegal, null and void with consequent amendment in the body of the plaint.

5. The trial Court vide separate orders dated 2.9.2021, dismissed both the applications.

6. Feeling aggrieved the plaintiff has filed the instant revision petitions.

7. I have heard learned counsel for the revisionist besides going through the record and I do not find any merit in the revision petitions.

8. Initially the plaintiff had filed a suit for grant of permanent injunction against the private defendants on the allegations that they were threatening to dig up the water pipes buried by him under the road for the purpose of irrigation of his fields. There is no mention in the plaint with regard to Punjab Mandi Board cancelling the permission granted to the plaintiff or threatening to remove those pipes. Now the plaintiff wants to introduce altogether a different case by impleading Punjab Mandi Board into the picture alleging that such Board has cancelled the permission granted to him to lay water pipe line under the road and is threatening to remove the pipes. It is altogether a different case of action opened to the plaintiff. The nature of suit is also sought to be changed by turning it into a suit for declaration and permanent injunction instead of the original suit for permanent injunction only. The applications under Order 1 Rule 10 CPC and Order 6 Rule 17 CPC could not be allowed under the circumstances and the trial Court was fully justified in dismissing both the applications. The plaintiff has got a different cause of action and he may bring a separate suit against Punjab Mandi Board and its officials if so advised but cannot seek the acceptance of the applications.

9. The orders passed by the trial Court are quite detailed, well reasoned based on proper appraisal and appreciation of the legal as well as factual position and the same do not suffer from any illegality and infirmity and can certainly be not termed as arbitrary or having been passed against settled legal principles, which might have called for interference by this Court while exercising jurisdiction under Article 227 of the Constitution of India. Finding no merit in the petitions, the same stand dismissed.

R.M.S.

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Petition dismissed.

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