

Application under Order 1 Rule 10 CPC for impleading State of Punjab as defendant no. 3.

Present: Ms. Navjeet Kaur, Govt. Pleader for the applicant
Sh. J.S. Sidhu, Advocate, Counsel for respondent/plaintiff

Order:

1. This order of mine shall dispose off an application under Order 1 Rule 10 CPC for impleading the State of Punjab through District Collector-cum-Deputy Commissioner, Patiala as defendant no. 3.

2. It has been submitted by the Ld. GP for the state that defendant no. 1 is under Muafi by the State Government and as such, the management, appointment of Mahant/Mohitmim and control of the said Dera vests in the State Govt. It has further been submitted that as per the terms and conditions of the appointment of Mohitmim, Hari Kishan Dass, had no powers to alienate the property of Dera to any one in any manner and the property of the Dera would not be considered as his personal property. Further, Hari Kishan Dass had no right to execute any Will in favour of respondent, Atma Ram, as the property was not his personal property, but he was only the Mohitmim of the Dera and instructions were issued by the Deputy Commissioner/Collector, Patiala to all the Tehsildars/Naib Tehsildars in the district, not to sanction any mutation of any Dera in the name of any Mohitmim until and unless, he is appointed as Mohitmim by the State Government. It has further been submitted that the order dated 27.3.1984 passed by the Assistant Collector, IInd Grade, Patiala on mutation no. 304 of village Jahlan, Tehsil & District Patiala, are illegal and against standing instructions issued by the Government. It has further been submitted that in view of the facts and circumstances, it is

very much clear that the State of Punjab is actual controller of Dera Baba Magni Ram, Achar Bazar, Jourian Bhatian, Patiala and applicant shall suffer irreparable loss and injury, in case the applicant is not allowed to contest the present suit. Accordingly, it is prayed that present application be allowed and applicant be impleaded as defendant no. 3 in the present suit.

2. Upon reply, Ld. counsel for the respondent/plaintiff submitted that the applicant is stranger to the suit and is not entitled to submit an application. It has further been replied that the State Government has no right to control the functions of Dera Baba Magni Ram as the government has miserably failed to maintain the record of the said institution and applicant has not made any record, since 1950 onwards. By denying rest of the averments, prayer for dismissal of the present application has been made.

3. I have heard the arguments put forth by Ld counsel for both the parties and have carefully gone through the case file. By way of present application the applicant seeks to be impleaded as defendant no. 3 on the ground that the Dera is under Muafi by the State Government and is under its control. It has been pleaded by plaintiff that a notification of National Highways Act has been issued and it has been declared that the land in question shall vest in Central Government. The plaintiff is seeking declaration, mandatory injunction and permanent injunction in the present case, on the basis of adverse possession. In para no. 18 of the present application, the applicant has specifically pleaded that State of Punjab is actual controller of Dera Baba Magni Ram and plaintiff has not specifically denied the said averment of applicant in the corresponding

para in his reply. He has simply submitted that the plaintiff has a cause of action to file the present suit in view of the provisions of Section 9, 15 and 16 of CPC. From the scrutiny of facts and record available on file, at this stage, it appears that the State of Punjab is required to be impleaded as defendant for the proper and complete adjudication of the matter in dispute. Accordingly, present application stands allowed. The observations made in this order shall not have any effect on the merits of the case.

Announced.
06.02.2025

Typed by: Sharanjeet Kaur
Stenographer-II

(Rajbinder Kaur), PCS
Addl. Civil Judge (Sr. Division),
Patiala. (UID no. PB0390)