

Harbans Singh Vs. Manmohan Singh

Present: Sh. Amarjit Singh Gill, Adv., ld. counsel for the plaintiffs
Sh. S.K.Gautam, Adv., ld. counsel for defendants No.1 to 3

1. This order of mine will dispose off an application U/o 1 Rule 10 CPC filed by the plaintiffs for impleading Punjab Cold Storage and Ice Factory through its partners as plaintiff No.3 in the suit. According to the applicant, plaintiffs are co-owners in joint possession of the land but as a matter of fact the relief has been sought that registered firm Punjab Cold Storage and Ice Factory has sought declaration through its partners plaintiffs No.1 & 2 who are exclusive owners in possession of the firm Punjab Cold Storage and Ice Factory. Due to oversight and inadvertence they could not implead Punjab Cold Storage and Ice Factory as one of the plaintiffs. So application be allowed and the Punjab Cold Storage and Ice Factory shall be impleaded as plaintiff No.3.

2. In reply, the defendant took preliminary objections that the application is a misuse of the process of law and the plaintiff is estopped by his act and conduct from filing the application. On merits, it has been stated that the suit was filed in the year 2013 while the present application has been filed after a period of about 4 years by concocting false story, so the application shall be dismissed.

3. I have heard the arguments of the learned counsel for the parties and have perused the judicial record very carefully.

4. The suit relating to declaration has been filed by Harbans Singh and Davinder Kaur through their attorney Gural Singh. In Para No.3 of the plaint, it has been mentioned that plaintiffs alongwith Amrik Singh entered into a partnership deed in the year 1977-78 for running the business of Cold Storage and Ice Factory in the name and style of M/s Punjab Cold Storage and Ice Factory, VPO Dhirgrina, Tehsil Bhogpur, District Jalandhar. The plaintiffs obtained loan for the purpose of running and establishment of the cold storage and have also attached the counter

foils of the bank receipts. It clearly proves that the plaintiffs being proprietors of the Cold Storage could not implead plaintiff No.3 at the time of filing the plaint. They have clearly mentioned in Para No.3 of the plaintiff about the said Cold Storage and the application was filed on 13.05.2016. Although, it has been filed after the framing of issues but for proper adjudication of the dispute the presence of proposed plaintiff No.3 is necessary because even if the suit is decreed or dismissed the presence of proposed plaintiff No.3 is necessary. The case is at its preliminary stage only where issues have been framed but no witness has been examined by the plaintiffs. So the application U/o 1 Rule 10 CPC is hereby allowed. Amended plaint be filed on 19.08.2017.

Date of Order: 01.08.2017

*Chander Cheema**

**(Amita Singh)
Civil Judge (Sr. Div.)**

**(NRI Court), Jalandhar.
UID NO. PB0225**

Next Date: 19.08.2017

Purpose: _____

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1. Alongwith the application U/o 1 Rule 10 CPC, a separate application U/o 6 Rule 17 CPC has been filed by the plaintiffs wherein it has been stated that after impleading plaintiff No.3, the plaintiff shall be allowed to amend certain paragraphs of the plaint and the said proposed amendments have been highlighted in the application.

2. In reply the defendants have taken preliminary objections that the application is not maintainable being barred by time and no permission can be granted to amend the suit at this stage. The remaining contents of the application have been denied and prayed for dismissal of the application.

3. Vide my separate detailed order of even date, the application of plaintiff filed U/o 1 Rule 10 CPC has been allowed and after impleading plaintiff No.3 in the present suit the proposed amendment is necessary, so the application is hereby allowed. Amended plaint be filed on 19.08.2017.

Date of Order: 01.08.2017
*Chander Cheema**

(Amita Singh)
Civil Judge (Sr. Div.)
(NRI Court), Jalandhar.
UID NO. PB0225

Next Date: 19.08.2017

Purpose: _____