

IN THE COURT OF SANDEEP SINGH SIHAG, SENIOR CIVIL
JUDGE, COURT No.1, UNA, DISTRICT UNA, HP.

Civil Misc. Application No.805/2022
CIS Registration No.4020/2022
CNR HPUN03-004964-2022
CIS Registration Year : 2022
Date of Institution : 14.11.2022
Date of Decision : 20.04.2023

In Re: Raman Kumar and Ors. CMA in main Civil Suit
No.42/2022 titled Mangat Ram versus State of HP and Ors.
Civil Miscellaneous Application under Order I Rule 10 (2) of
Code of Civil Procedure

Present

For applicants : Mr M.S. Rana, Advocate.

For respondent : Mr Mukul Bali, Advocate.

O R D E R : Hereby a civil miscellaneous application filed by
applicants against respondent seeking themselves to be
impleaded as defendants in the main suit shall be disposed
of.

2 By way of the application at hand, as per averments,
Raman Kumar and others being 15 applicants, residents of
villages Dharun, Ambehra Ram Kishan and Amroh, are seeking
themselves to be arrayed as defendant contending that under
the garb of ad interim order passed by this court the plaintiff in
main case has damaged the public passage which is used by
the applicants and other local residents. It is further contended
that the applicants are affected as they use the said passage
and have no alternate passage and for effective adjudication
of question involved in the lis applicant need to be arrayed
necessarily.

3 It is contested by respondent being plaintiff in main suit
by way of filing reply denying averments of the applicants and
praying for dismissal of application. It is contended for
respondent that the applicants do not have a right to relief
against plaintiff in main case in respect of controversy
involved in proceeding and it is also not the case that no

effective decree can be passed in absence of applicants being party to the main case.

4 For effective adjudication of the applicant it is apt to precisely mention here about the main case. In the main case the plaintiff being respondent herein is seeking relief of prohibitory injunction from committing alleging unlawful interference in the suit land in his possession against the state of HP through collector and executive engineer of HPPWD and assistant engineer of HPPWD alleging that the said defendants paid no heed to desist from their acts having threatened to cause unlawful interference in the suit land in his possession. It is contested by the defendant in main case inter-alia on various grounds alleging suppression of facts, want of cause of action and that the suit is not maintainable.

5 Relevant provision of law as contained in Order I Rule 10(2) Code of Civil Procedure is reproduced here under for ready reference:

Court may strike out or add parties.-The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

6 In the light of pleadings on record, irrespective of merits of contention and claim of plaintiff in main case it is simplicitor a case of alleged unlawful interference by one party in possession of other party and except for injunction the plaintiff has not sought any other relief and sought the injunction only against the defendants.

7 In the given facts and circumstances, to my mind, the application at hand deserves to be dismissed being devoid of merits as the plaintiff being dominus litus has in the main case simplicitor sought relief of injunction against the defendants only qua the suit land claimed to be in his possession and has not claimed any relief against the applicants, thus the applicants do not seem to be necessary or even proper party to the main case, which can be effectively adjudicated without them. Moreover in respect to the controversy involved in the proceedings in main case they do not appear any right to relief against the plaintiff to or in favour of the applicants. Furthermore, the applicants for their alleged grievances may take up the matter with concerned authorities of state and it is needless to state here that in respect to any cause of action in their favour they may seek remedy by way of adopting proper legal recourse independently. It is also needless to state here that any person whosoever under any pretext or claim cannot commit such any act which may cause unlawful loss or damage to any public property or general public at large or commit such any act diminishing value or utility of any such public property and also any such facility like road or passage etc developed with investment of public funds and for the use of public, even if, it may happen to exist on some private property as smaller interest merges in the larger interest and in such eventuality concerned public authorities are not even sufficiently empowered rather duty bound to take all preventive and remedial measures. Hence, accordingly the application at hand is hereby disposed of being dismissed. It is clarified that the observations recorded hereinabove are purely for disposal of the application at hand and the same shall have no bearings on merits of main case. Application after registration and completion be tagged with main case file. Announced in the open Court.

(Sandeep Singh Sihag)
Senior Civil Judge, Court No.I,
Una, Distt. Una, H.P.

R.S.

SENIOR CIVIL JUDGE-CUM-ACJM COURT NO-I, UNA