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*Before V.S. Aggarwal, J*

AMRITSAR DIOCESAN TRUST ASSOCIATION (REGD.),—  
*Petitioner.*

*versus*

AMRITSAR DIOCESAN TRUST ASSOCIATION & ANOTHER,—  
*Respondent.*

*C.R. No. 4015 of 1997*

7th July, 1998

*Code of Civil Procedure, 1908—0.1 Rl. 10—Addition of parties—  
No relief claimed against a party—Such party, whether entitled to be  
impleaded.*

*Held that*, the suit as such has been filed for permanent injunction to restrain certain private individuals from interfering into the possession of respondent-society. Therefore, it is basically a civil suit against the private individual. From the nature of the pleas asserted by the petitioner and the reply filed by the respondent-society, it is clear that they are having some controversy about the control of the property. This pertains to certain land and properties, but if the respondent-society is in possession and seeks to protect the same from third person, the civil suit cannot be allowed to be converted into question of title or right to manage the property. It is in this background that necessarily a finding has to be arrived at that petitioner cannot be allowed to convert into civil suit for injunction against a third person.

(Para 8)

Ashwani Chopra, Advocate,—*for the Petitioner.*

Amit Rawal, Advocate for respondents No. 1 and 2.

R.D. Bawa, Advocate, for respondent No. 3 to 14.

### JUDGMENT

V.S. AGGARWAL, J.

(1) Amritsar Diocesan Trust Association (Regd.) has filed the present revision petition directed against the order passed by the learned Civil Judge (Junior Division), Amritsar, dated 14th May, 1997. By virtue of the impugned order, learned trial court dismissed the

application filed by the petitioner under Order 1 Rule 10 of the Code of Civil Procedure (for short "the code"). The petitioner prayed for it being impleaded as a party to the civil suit filed by respondent Amritsar Diocesan Trust Association.

(2) The relevant facts are that the respondents had filed a suit for permanent injunction against Mrs. Sadiqa and others to restrain them from forcibly and illegally interfering or inter-meddling in the peaceful possession, affairs and management of the respondent-society in the property known as Mission Compound situated at Mahan Singh Gate, Amritsar and St. Luke's Church, Jalandhar Cantt. It also prayed for a permanent injunction to restrain Sameul Prince from handing over the possession of the property to the other defendants in the suit. During the pendency of the suit, the present petitioner submitted an application under Order 1 Rule 10 of the Code for being impleaded it as a party. It was asserted that the respondent-society is a fake one. It is the petitioner which is the real society. It was declared to be so by the learned Addl. Senior Sub Judge, Amritsar. It was held that Dr. Anand Chandu Lal was the Chairman and Sadrick Sohan Lal was the Secretary. By filing such a suit, the respondent-society want to grab the property of the petitioner. The respondent has already been restrained to interfere in the affairs of the petitioner's society. Thus, the petitioner society should be impleaded as a party to the civil suit.

(3) Notice of the application was issued to the respondents who contested the said application. It was asserted that the petitioner has no right to be impleaded as a party. It was further contended that the alleged office bearers of the petitioner society have no interest or title in the management and affairs of the respondent-society. The learned trial court on perusal of facts held that the petitioner is not a necessary party and, therefore, the application filed by the petitioner as such was dismissed. Aggrieved by the same, the present revision petition has been filed.

(4) On behalf of the petitioner it was highlighted that the respondent-society is a fake society. By filing such a suit for injunction it only wants to confuse the controversy and establish its rights. In this process, the respondent-society intends to usurp the land and property of the petitioner-society. The petitioner should be impleaded as a party for proper adjudication of the question in controversy.

(5) On behalf of the respondents, it was, however, contended that the petitioner-society is not a necessary party for adjudicating the question in controversy vis-a-vis the respondent-society and others.

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(6) In the facts of the present case, the contention of petitioner-society cannot be appreciated or accepted. The relevant provision of Order 1 Rule 10 (2) of the Code reads as under :—

“10 (2) Court may strike 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.”

(7) The relevant portion reproduced above shows that the Court on its own motion or on the application of a person or a party may implead a person as a plaintiff or a defendant but the presence of that person is necessary to decide the question in controversy between the parties. If the presence of the said person is not necessary to determine the question in controversy or in other words the said third person seeking impleadment is unnecessary for due adjudication in that event the said application necessarily must fail.

(8) The suit as such has been filed for permanent injunction to restrain certain private individuals from interfering into the possession of respondent-society. Therefore, it is basically a civil suit against the private individual. From the nature of the pleas asserted by the petitioner and the reply filed by the respondent-society, it is clear that they are having some controversy about the control of the property. This pertains to certain land and properties, but if the respondent-society is in possession and seeks to protect the same from third person, the civil suit cannot be allowed to be converted into question of title or right to manage the property. It is in this background that necessarily a finding has to be arrived at that petitioner cannot be allowed to convert into civil suit for injunction against a third person.

(9) Learned counsel for the petitioner relied upon the decision of this Court in the case of *Gram Panchayat Garhi v. Dharamvir and others* (1). On the basis of said decision it was urged that once the petitioners have interest in the property and they claimed themselves to be owners, they should be impleaded as a party because true owner

cannot be a stranger to the suit. The said observations and findings have to be appreciated in the light of the facts of the case. It appears from the perusal of the cited judgment that the persons who wanted to be impleaded as a party had alleged that their articles are lying in the building and Dharamvir who is the prospective purchaser was in possession. It was on these basic facts that it was prayed that it should be impleaded as a party. It is not so in the present case. The scope of the present suit is confined to protect possession of the present society. It is nothing to do with the question of title or management. Therefore, as already held above, the petitioner is not a necessary party and the cited case is clearly distinguishable.

(10) The basic principles of Order 1 Rule 10 of the Code are not subject matter of much controversy. The Supreme Court in the case of *Ramesh Hiranand Kundanmal v. Municipal Corporation, Greater Bombay (2)*, enunciated the same and held in paragraph 14 of the judgment as under :—

“It cannot be said that the main object of the rule is to prevent multiplicity of actions though it may incidentally have that effect. But that appears to be a desirable consequence of the rule rather than its main objective. The person to be joined must be one whose presence is necessary as a party. What makes a person a necessary party is not merely that he has relevant evidence to give on some of the questions involved; that would only make him a necessary witness. It is not merely that he has an interest in the correct solution of some question involved; that would only make him a necessary witness. It is not merely that he has an interest in the correct solution of some question involved and has thought of relevant arguments to advance. The only reason which makes it necessary to make a person a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial interest. It is, therefore, necessary that the person must be directly or legally interested in the action in the answer, i.e., he can say that the litigation may lead to a result which will affect him legally that is by curtailing his legal rights. It is difficult to say that the rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action.....”

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(11) It is obvious from the aforesaid that a clear distinction is to be drawn between the suits relating to property and those in which the subject matter of litigation is a declaration. Herein, basically possession was being protected and keeping in view the dicta above, the petitioner cannot be termed to be a necessary party.

(12) More close to the facts of the present case is the decision of this Court in the case of *Rampat v. Shri Mandir Thakurdwara at Suhra and others* (3). Herein a suit had been filed claiming a person to be in possession and injunction was claimed against the defendant. An application was filed by Shri Mandir Thakurdwara for it to be impleaded as a party. It was held that no relief was being claimed against Shri Mandir Thakurdwara and, therefore, it was not a necessary party. Likewise, in the present case no relief is being claimed against the petitioner. The petitioner, therefore, cannot be termed to be a necessary party. It cannot convert the said suit into one of other disputes which are extraneous to the main suit. There is no ground thus to interfere in the impugned order.

(13) For these reasons, the revision petition being devoid of merit must fail and is dismissed.

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**S.C.K.**

*Before V.S. Aggarwal, J.*

M/S WHIRLPOOL OF INDIA, LTD. THROUGH SHRI  
P.K.S. YADAV ITS GENERAL ATTORNEY,—*Petitioner*

*versus*

PRESIDING OFFICER, LABOUR COURT, FARIDABAD  
AND OTHERS,—*Resopondents*

*Civil Writ Pettition No. 11673 of 1997*

13th July, 1999

*Industrial Disputes Act, 1947—S. 33(2)—Age of retirment of employees of Kelvinator of India fixed at 58 under tripartite agrement subject to certain conditions—Company changed to Whirpool of India Ltd. under fresh certificate of incorporation—Voluntary retirement Schme of 95 announced —Compensation package made recokenable for those opting for golden hand shake on basis of retirment age 55 years—Claim made before Labuour Court u/s 33(2) C for compensation*

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(3) 1997 P.L.J. 654