

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1386 of 2014 (O&M)
Date of decision: 10.07.2015

Gurmeet Singh

... Petitioner

versus

Jaspal Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Chaman Lal, Advocate for the petitioner.

None for the respondents.

K.Kannan, J.

The petition for impleadment was brought at the instance of one Harbhajan Singh in a suit filed by the purchaser from the Harbahajan Singh. The defense was Harabhajan Singh, the plaintiff's vendor was not an exclusive owner and he held, but a co-parcenary interest. Consequently, according to the defendants, the sale was not valid to bind their interest. The defendant have filed a counter-claim to contend that the sale in favour of the plaintiff was not valid and it has to be set aside. The application for impleadment is now brought by the defendant to say that the sale by the Harbhajan Singh could be set aside only in his presence and therefore he should be impleaded as a party. The Court below has dismissed the petition and the revision is against the said order. The contention raised by the petitioner is untenable for four reasons:-

1. The validity of the dale which is propounded by the plaintiff will be examined on the basis of the respective claims of parties, namely the plaintiff's assertion that it is the separate property of Harbhajan Singh and the defendant's contention that it is not. Such an exmination dies not require the presence of the vendor. The plaintiff as a dominus litus may have chosen, if she so thought, to

bring the vendor as a co-plaintiff to support her title. However no compulsion to do so.

2. The counter claim for assailing a sale would require only proof of a contention whether the vendor had a right to affect the sale or not. The court has observed that Harbhajan Singh could be brought as a witness and his own presence is not necessary. That is an appropriate reasoning which cannot be assailed.

3. The impleadment would require the party to go either as a plaintiff or as a co-defendant. If the plaintiff herself would not want the vendor to be added as a co-plaintiff then there could be no compulsion of a party to be arrayed as a co-plaintiff on a proposition which we have already observed that as a dominus litus no court can compel the plaintiff to suffer any impleadment alongside the plaintiff.

4. If under the above situation the party to be impleaded could only come as a co-defendant, then a counter-claim cannot be against as a co-defendant as laid down by the judgment of Hon'ble the Supreme Court in Rohit Singh and others Vs. State of Bihar (now State of Jharkhand) and others, 2007 (1) RCR (Civil) 674.

The rejection of the petition for the impleadment was therefore perfectly justified. I will find no cause for intervention. The civil revision petition is dismissed with above observations.

(K.KANNAN)
JUDGE

10.07.2015

kv