

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CR No. 3751 of 2015

Date of decision : November 20, 2015

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Kuldip Tyagi

.....Petitioner

Versus

M/s Sangunity Exim (India) Ltd. and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. S.S Siao, Advocate for the petitioner.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

C.M No. 22540-CII of 2015

C.M is allowed.

Copy of plaint i.e Civil Suit No. 313 of 8.10.2012 is allowed to be placed on record as Annexure P-4.

CR No. 3751 of 2015

The petitioner has come up in this revision petition against the order dated 7.1.2015 (Annexure P-3) passed by the Civil Judge, Junior Division, Gurgaon whereby the application moved by the petitioner-applicant under Order 1 Rule 10 of CPC has been dismissed.

In the application under Order 1 Rule 10 of CPC, counsel

for the petitioner-applicant Kuldeep Tyagi contended that the plaintiff had entered into an agreement to sell dated 16.1.2012 pertaining to the first floor, Plot No. 1377, Sector 52, Gurgaon. The plaintiff in the suit collaborated with the owners for developing this plot and to make flats in it. On the basis of the said collaboration agreement, the plaintiff entered into the agreement to sell dated 16.1.2012 with the applicant. The plaintiff has filed the suit after the collaboration agreement dated 1.5.2010. The plaintiff came to know that there were some dimensional problems and the same were to be rectified by HUDA-Senior Town Planner Office. Attempts were made to get the same rectified. This led to the multiple round and visits of the office of the HUDA for getting the dimensional problems rectified and the same got rectified in the month of June 2012. By this time, the price of the land had increased and the defendant was in a process of creating third party rights. The plaintiff filed a suit for declaration and permanent injunction restraining the defendant from raising construction of the plot.

In the above background, the agreement in favour of the petitioner-applicant does not create any title in the property in dispute as no ownership right can be presumed to be transferred in favour of the applicant. Moreover, the applicant is not a party to the collaboration agreement between the plaintiff and the defendant. In view of the judgment titled **Kasturi vs. Iyyamperumal and others** **AIR 2005 SC 2813** the petitioner-applicant is not a necessary party.

I have heard counsel for the parties and perused the

records of the case file. I find no illegality or infirmity in the order passed by the trial Court as the petitioner-applicant is not a party to the collaboration agreement between the plaintiff and the defendant and the suit of the plaintiff can be finally decided without impleading him as a party. Necessary ingredients of application under Order 1 Rule 10 of CPC are not made out and hence the application has been rightly dismissed.

In view of all that has been discussed above, there is no merit in the present petition. Hence the same is dismissed.

November 20, 2015
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(**RITU BAHRI**)
JUDGE