

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 4314 of 2015 (O&M)
Date of decision: 6.8.2015

Mahipal

.. Petitioner

v.

Anand Parkash and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sandeep Kotla, Advocate for the petitioner.

...

Rajesh Bindal J.

Challenge in the present petition is to the order dated 20.5.2015, passed by the court below, whereby the application filed by the petitioner for being impleaded as one of the defendants in the suit, was dismissed.

Learned counsel for the petitioner submitted that respondent No. 1 filed a suit against respondent No. 2 for possession by way of specific performance of agreement dated 19.1.2011. The suit was filed on 22.7.2011. As there was an agreement to sell of the same property executed by respondent No. 2 on 13.3.2009 in favour of the petitioner and in pursuance thereof, even the sale deed was got registered by respondent No. 2 in favour of the petitioner on 5.5.2014, the application was filed by the petitioner for being impleaded as party in the suit to safeguard his interest. The same has been wrongly rejected by the court below.

After hearing learned counsel for the petitioner, I do not find any merit in the present petition. Firstly, there was interim order dated 30.10.2012 passed by the court below in the suit filed by respondent No. 1 restraining respondent No. 2 from alienating the suit property. Despite stay

order, she got a sale deed registered in favour of the petitioner on 5.5.2014 and the plea sought to be raised is that the agreement to sell is dated 13.3.2009. In the agreement to sell, sought to be relied upon by the petitioner, the entire sale consideration of ₹ 7,00,000/- is said to have been paid in cash with no date for registration of the sale deed fixed. Nothing has been pleaded that any power of attorney was executed. Though the agreement to sell provided for sale consideration of ₹ 7,00,000/-, but the sale-deed, which has been placed on record, was registered for a consideration of ₹ 6,60,000/-. The plaintiff is the master of his suit. The sale deed having been got registered by respondent No. 2 in violation of the stay granted by the court and after about three years after filing of the suit shows the conduct of the defendants. Under these circumstances, the petitioner cannot be said to be a necessary party. The principle of *lis pendens* will apply.

For the reasons mentioned above, there is no merit in the present petition. The same is, accordingly, dismissed.

(Rajesh Bindal)
Judge

6.8.2015
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