

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(111)

CR No.4396 of 2015

Decided on: July 27, 2015.

Babita

.... Petitioner

Versus

Ram Kishan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Ajay Jain, Advocate,
for the petitioner.

M.M.S. BEDI, J (ORAL)

This is plaintiff's revision petition against the order dated 19.05.2015 passed by the trial Court, allowing the application under Order 1 Rule 10 CPC filed by Sneha Lata and Jyoti permitting them to be impleaded as defendants as they had purchased the property from defendants No. 1 to 6.

Learned counsel for the petitioner has vehemently argued that transferees, during pendency of the litigation, would be governed by the principles of lis pendens and are not necessary parties. He has placed reliance on judgments of Apex Court in *Sanjay Verma Vs. Manik Roy and others, 2007 (1) RCR (Civil) 408* and *Kirpal Kaur Vs. Jitender Pal Singh and others in Civil Appeal No.2820 of 2015 decided on 14.07.2015* wherein placing reliance on *Dhurandhar Prasad Singh Vs. Jai Parkash University and others 2001 (6) SCC 534*, the Apex Court has held that a person who acquires the interest by devolution and obtains leave to carry on the suit, the suit in his hands is not a new suit, it is the old suit carried on at

his instance and he is bound by all proceedings up to the stage when he obtains leave to carry on the proceedings.

There is no dispute regarding the proposition of law as held in the above said judgments.

The petitioner alongwith other plaintiffs has filed a suit for declaration against Ram Kishan and 5 others, the contesting defendants and defendants No. 7 to 54, the proforma respondents, seeking declaration that the plaintiffs are owner in possession over the property in dispute on the basis of registered sale deed and that the defendants have got no right, title and interest in the property on the basis of mutation No.9571 and that the plaintiffs are not bound by mutation No.9571. An injunction has also been sought against the abovesaid contesting defendants restraining them to alienate the property. The contesting defendants No.1 to 6 during pendency of the suit alienated the suit property to respondents No. 7 and 8. Vide impugned order, before framing of issues, the trial Court has permitted the said purchasers to be impleaded as party observing that their presence is necessary for effective adjudication of the controversy despite the fact that principle of lis pendens will be operative qua their rights.

As per provisions of Order 1 Rule 10 (2) CPC, it is the discretion of the Court, in the facts and circumstances of each case, to determine whether the presence of any party is necessary for just decision of the case, in order to enable the Court to factually and completely settle all the questions involved in the suit. In the present case, taking into consideration the nature of controversy between the parties, I am of the considered opinion that in order to avoid multiplicity of litigation and for finally determining the controversy involved regarding the right, title and

interest in the property of the parties, the purchasers during pendency of the case are necessary parties. The stage of the trial is also considered to be a factor at the time of adjudication of such an application. The subsequent vendees, respondents No. 7 and 8, having acquired right, title and interest having stepped in the shoes of defendants No. 1 to 6 can be impleaded as party as defendants under Order 22 Rule 2 CPC. It is not out of place to observe here that in Kirpal Kaur's case (supra) relied by the counsel for the petitioner, second defendant had sought intervention on the basis of a gift deed at a belated stage in the civil proceedings. The facts and circumstances of each case are to be appreciated while applying the principles of law. The ratio of judgments cited are not applicable for the facts of the present case.

No ground is made out for interference.

Learned counsel for the petitioner has, at this stage, placed reliance on *Shri Kishan Somani Vs. Ram Nath and others, 1991 (1) PLR 650*, in support of his contention that the added respondents should not be permitted to file written statement in contradiction to the stand taken by their vendors.

I have considered the said contention. It will be open to the plaintiff-petitioner to contest the claim of the added defendants, in case, the said claim is in contradiction to the claim of their vendors. It will be open to the plaintiffs to raise the objections at opportune time before the trial Court.

Dismissed.

(M.M.S. BEDI)
JUDGE

July 27, 2015
harsha