

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

Civil Revision No.5038 of 2015

Date of decision: 10.08.2015

Kuldeep Kaur

.....Petitioner

Versus

Pargat Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Deepak Verma, Advocate,
for the petitioner.

Ritu Bahri, J.

Challenge in this petition is to the order dated 26.05.2015 (Annexure P-5) passed by the Civil Judge (Junior Division), Garhshankar, whereby application filed by respondent Nos. 2 and 3 for impleading them as party in the suit has been allowed.

Plaintiff-petitioner has filed a suit for recovery and fixation of future maintenance and to declare the said maintenance amount as first charge on the land measuring 23 Kanals out of 91 Kanals, comprised in khasra numbers, fully detailed in the head note of the plaint (Annexure P-1), against her husband-respondent No.1.

Defendant-respondent No.1 (husband of the plaintiff-petitioner) appeared before the trial Court and filed written statement (Annexure P-2). After filing of the suit, he has executed a sale deed dated 04.07.2014 with regard to the land measuring 14 Kanals out of 75 Kanals 18 Marlas in favour of Sandhya Anad and Ramesh Rani (respondent Nos.2 and 3 herein) and put them in possession of the aforesaid property. Thereafter, the present

respondent Nos.2 and 3 to implead them as party respondent in the suit.

The objection of the plaintiff-petitioner was that the alleged sale has been executed by the defendant-respondent No.1 in favour of respondent Nos.2 and 3 (applicants) during the pendency of the suit, therefore, they are not necessary party in the present suit for maintenance, which has been arisen out of matrimonial discord between husband and wife. On this ground, their application was liable to be dismissed.

While allowing the application, it has been observed by the trial Court that the applicants-respondent Nos.2 and 3 had got their valuable right in the property and if the present suit is decreed, it would affect them directly and adversely. Therefore, they are necessary parties in the present suit.

At this stage, reference can be made to a judgment delivered by the Hon'ble Supreme Court in **Savitri Devi Vs. District Judge, Gorakhpur and others**, 1999 AIR (SC) 976, whereby in a suit filed by mother against four sons for a decree of maintenance and for creation of charge of ancestral property, an interim order was passed by the Court not to transfer the property on the basis of consent decree. Despite the said order, one person had sold his share. Ultimately, the subsequent purchasers were held necessary and property parties. In para Nos.9 and 10 of the aforesaid judgment, it was observed as under:-

“9. Order 1, Rule 10, C.P.C. Enables the Court to add any person as party at any stage of the proceedings if the person whose presence before the Court is necessary in order to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit. Avoidance of multiplicity of proceedings is also one of the objects of the said provision in the Code.

10. In **Khemchand Shankar Choudhari v. Vishnu Hari Patil, (1983) 1 SCC 18**, this Court held that a transferee pendente lite of an interest in an immoveable property which is the subject-matter of suit is a representative

in interest of the party from whom he has acquired that interest and has a right to be impleaded as a party to the proceedings. The Court has taken note of the provisions of Section 52 of the Transfer of Property Act as well as the provisions of Rule 10 of Order 22, C.P.C. The Court said:

“.....It may be that if he does not apply to be impleaded, he may suffer by default on account of any order passed in the proceedings. But, if he applies to be impleaded as a party and to be heard he has got to be so impleaded and heard.....”

In the present case, the plaintiff-petitioner, as per plaint (Annexure P-1) had sought recovery and fixation of future maintenance from her husband and the said maintenance would amount to first charge on the land in dispute. The subsequent purchasers i.e. Sandhya Anad and Ramesh Rani (respondent Nos.2 and 3) would, certainly, be necessary parties to contest the suit and to protect their right that the maintenance should not be made a charge of the property purchased by them. Moreover, they would be directly affected by the result of the suit being subsequent vendees of the suit property.

In view of the above, this Court is of the view that the trial Court has rightly allowed the application of applicants-respondent Nos.2 and 3 and no ground is made out to interfere in the impugned order dated 26.05.2015 (Annexure P-5).

Dismissed.

10.08.2015
ajp

(RITU BAHRI)
JUDGE