

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-523-2015

Date of decision: 22.1.2015

Narinder Singh and another

..... Petitioners

Versus

Sham Kumar Verma and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers 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?*

PRESENT: Ms. Rahish Pahwa, Advocate for the petitioners.

R.P. NAGRATH, J. (ORAL)

Petitioners have invoked revisional jurisdiction of this Court under Article 227 of the Constitution of India seeking to set aside the order dated 27.11.2014 (Annexure P-1) passed by the learned trial Court whereby the application under Order I Rule 10 read with Section 151 of the Code of Civil Procedure (CPC) filed by respondent No. 1 was allowed.

The suit was instituted on 2.2.2009 by one son and daughter (petitioners) of Boota Singh, defendant-respondent No. 2 seeking declaration to the effect that plaintiff-petitioners are owners in possession of 1/5th share each in the land held in the name of Boota Singh claiming themselves to be co-sharers, on the basis of oral family settlement dated 12.10.2003. Respondent No. 1 in his application claimed that there were two agreements to sell dated 7.3.2008 and 16.9.2008 executed by Boota

Singh in his favour and also there is a sale deed dated 20.5.2008 executed by defendant-respondent No. 2 in favour of one Rajiv Diswar.

I have heard learned counsel for the petitioners and perused in the impugned order as well as the paper-book.

In view of the aforesaid allegations, it is quite clear that the sale deeds which have been set up by respondent No. 1 executed by Boota Singh came into existence even before institution of the suit and obviously, he is a necessary party.

Learned counsel for the petitioners vehemently contends that so far as the agreements to sell dated 7.3.2008 and 16.9.2008 are concerned, the suit for specific performance of agreement to sell has already been instituted by the applicant-respondent No. 1. If that be so, impleading of respondent No. 1 as a party to the suit was all the more essential.

Learned counsel for the petitioner also contends that earlier also an application for impleading applicant-respondent No. 1 as a party was filed. On this aspect, it was observed by learned trial Court that earlier application was allowed and the applicant was impleaded as defendant No. 5 and subsequently, the same application was dismissed in default on 23.10.2012 which is apparently a contradiction in the terms which the learned trial Court has rectified and that too quite correctly.

In view of the above, there is no perversity or illegality in the impugned order. The instant petition stands dismissed.

January 22, 2015
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(R.P. NAGRATH)
JUDGE