

105

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

Date of Decision: 21.08.2015

1. CR No.5328 of 2015

BAGGA SINGHPetitioner
Vs

SHINGARA SINGHRespondent

2. CR No.5329 of 2015

BAGGA SINGHPetitioner
Vs

SHINGARA SINGHRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Amit Dhawan, Advocate
for the petitioner(s).

1. *Whether Reporters of 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?*

RAJ MOHAN SINGH, J.(Oral)

[1]. Vide this common order CR Nos.5328 and 5329 of 2015 are being decided as common issue is involved in both the petitions.

Facts are being taken from CR No.5328 of 2015.

[2]. Petitioner(s) seek quashing of impugned order dated 28.07.2015, passed by learned Additional Civil Judge, Sr. Divn. Nakodar, whereby his application filed under Order 1 Rule 10 CPC has been dismissed.

[3]. Learned counsel for the petitioner(s) states that agreement

to sell was executed on 12.04.2004 in respect of 39 *Kanals 7 Marlas* of land at the rate of Rs.3,45,000/- per acre. Earnest amount to the tune of Rs.4,50,000/- was paid and target date for execution of sale deed was fixed on or before 05.10.2004. An additional amount of Rs.2,00,000/- towards earnest amount was also paid on 03.06.2004 and endorsement to this effect was made in the agreement to sell.

[4]. Since the defendant was also in possession of some other land in addition to 39 *Kanals 7 Marlas of land*, a sale deed was executed on 11.06.2004 before the target date for execution of sale deed. Sale deed was not registered because there was ban of 20 years against the allottees from the date of conveyance deed. Sale deed could not be registered, however general power of attorney was given by defendant to the plaintiff as a token with assurance that the same will not be cancelled.

[5]. The unregistered sale deed dated 11.06.2004 was in respect of 42 *Kanal 6 Marlas* of land for a total sale consideration of Rs.18,12,687/- after adjusting the earnest amount already received.

[6]. Learned counsel further states that according to Government instructions, the ban of 20 years was subsequently reduced to 10 years. Petitioner/plaintiff asked the defendant/respondent to get the sale deed dated 11.06.2004 registered.

[7]. The civil suit for specific performance was filed by the plaintiff on 07.09.2011. Wife of the defendant also filed a civil suit in

respect of 39 *Kanal 7 Marlas* as indigent person. In para no.8 of the civil suit filed by the plaintiff there is specific recital regarding factum of filing of civil suit by Parkash Kaur (wife of defendant) against the defendant. Even the application under Order 1 Rule 10 CPC filed by plaintiff in the suit of Parkash Kaur stood dismissed on 11.08.2011, therefore, the applicant-petitioner was in the knowledge of the suit filed by Parkash Kaur against her husband at the time time of filing of suit for specific performance. Even this fact stood admitted in para no.8 of the plaint itself. Still Parkash Kaur was not impleaded in the array of defendant in a suit for specific performance filed by the plaintiff. The plea of the petitioner that he came to know about the collusive decree dated 17.08.2011 passed in the case of Parkash Kaur on 20.12.2011, is of no consequence in view of para No.8 of the plaint and order dated 11.08.2011 passed in the application under Order 1 Rule 10 CPC filed by the petitioner himself in the suit of Parkash Kaur.

[8]. In view of aforesaid, no ground to implead Parkash Kaur under Order 1 Rule 10 CPC is made out in suit for specific performance filed by the petitioner. Consequently, both the revision petitions are hereby dismissed. Consequent amendment to challenge the decree passed in favour of Parkash Kaur cannot be granted.

August 21, 2015

Atik

(RAJ MOHAN SINGH)
JUDGE