

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.5620 of 2015 (O&M)

Date of decision: 10.12.2015

Madhu Bala

..... Petitioner

Versus

Ravi Parkash and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not? Yes
3. Whether the judgment should be reported in the digest?

Present : Mr. R.V.S.Chugh, Advocate for the petitioner.

Mr. Vishal Munjal, Advocate for respondent No.1.

Service of respondents No.2 to 8 dispensed with
vide order dated 18.9.2015.

ARUN PALLI, J. (Oral)

CM No.24386-CII of 2015

Application is allowed as prayed for and documents are taken
on record.

CR No.5620 of 2015

Vide order being assailed, 7.8.2015, rendered by the Civil
Judge (Sr. Divn.), Mansa, application moved by the petitioner under Order 1
Rule 10 of the Code of Civil Procedure, had since been dismissed. The
conclusion recorded by the trial Court in support of its order reads as thus:-

“After hearing the learned counsel for parties,

Parveen Kumar is the husband of applicant Madhu Bala

whereas Braham Parkash son of Sant Ram is the father-in-law of the applicant who is already a party in the present case. After filing of the present litigation, the present application has been filed by Madhu Bala. She is the relative of defendants No.1 and 3. Once, she is wife and daughter-in-law of defendants No.1 and 3, this court is of the opinion that application under Order 1 Rule 10 CPC does not lie and the same is hereby dismissed”.

Concededly, applicant had purchased a part of the suit land, measuring 28 X 58 feet vide a sale deed No.1189 dated 28.5.2012 from Parveen Kumar son of Sant Ram and she even alleged to have been put in possession thereof. Likewise, vide another sale deed No.191 dated 10.04.2012, she has also acquired the share of Braham Parkash son of Sant Ram.

In response, plaintiff did not dispute that vide these sale deeds Parveen Kumar and Braham Parkash had transferred their interest in favour of the petitioner. *Ex facie*, the petitioner had acquired interest in the suit property prior to the institution of the suit and was thus necessary as well as a proper party to the suit. No doubt, petitioner is the wife of Parveen Kumar, who also happened to be the brother of Braham Parkash but that would hardly be a reason to decline the prayer of the petitioner to array her as party to the suit. Likewise, the plea that the said two sale deeds are without consideration is hardly of any consequence at this stage.

Consequently, the revision petition is accepted, the order dated

7.8.2015, is set aside and the petitioner is arrayed as defendant to the suit. However, trial Court shall only afford one opportunity to the petitioner to file her written statement and in the event of any breach, her right to file one shall stand forfeited. Likewise, she would only be afforded one opportunity to lead and conclude her evidence and in the event of failure, her evidence too shall be deemed to have been closed. Needless to mention that trial Court shall formulate the requisite time schedule accordingly.

December 10, 2015

Manoj Bhutani

**(ARUN PALLI)
JUDGE**