

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

CR No.5685 of 2015

Date of decision: 15.09.2015

Bhola Singh and another

...Petitioners

versus

Thana Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Punchhi, Advocate,
for the petitioners.

RITU BAHRI, J.

Challenge in this petition is to the order dated 07.07.2015 (Annexure P-4) passed by the Additional District Judge, Ferozepur, whereby application filed by the petitioners under Order VI Rule 17 CPC read with Order 1 Rule 10 CPC for amendment of memo of appeal and impleadment of Nishan Singh and Kewal Singh as party, has been dismissed.

Plaintiffs-petitioners had filed a suit for declaration that they are owners of land measuring 71 Kanals 18 Marlas as per the details given in head note of the plaint. Trial Court, vide judgment and decree dated 03.10.2012 dismissed the said suit. During the pendency of the suit, defendant No.1-Thana Singh had transferred 40 Kanals of land from the suit property in favour of Bhola Singh as per transfer deed dated 29.01.2010. Plaintiffs-petitioners are claiming the entire suit property on the basis of compromise dated 15.10.2006. As per this compromise, nothing had been given to defendant Nos.2, 3 and 4. On the basis of above compromise, plaintiffs-petitioners were claiming right over the entire suit land. Therefore,

this compromise has created a new right in favour of the plaintiffs-petitioners. Hence, this compromise was required to be compulsorily registered under Section 17 (2) of Registration Act, 1908. After dismissal of the suit, defendant No.1 sold further 23 Kanals 8½ Marlas of land in favour of Kewal Singh and Nishan Singh. At that stage, an application for amendment in the grounds of appeal and for impleading the subsequent purchasers as party, was made. While dismissing the application vide impugned order, it has been rightly observed by the lower appellate court that pursuant to the decree dated 03.10.2012, Thana Singh-defendant No.1 was competent to transfer the land out of the suit land. The subsequent purchasers of 23 Kanals of land have stepped into the shoes of Thana Singh and they will be bound by the decision in the appeal.

The question, whether the compromise dated 15.10.2006 requires compulsorily registration under the Registration Act, would be decided at the final stage of the appeal. At this stage, no ground is made out to implead the subsequent purchasers of 23 Kanals of land, as party to the appeal.

Dismissed.

(RITU BAHRI)
JUDGE

15.09.2015
ajp