

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5569 of 2014
Date of decision: 18.12.2015

Ram Chander

... Petitioner

Versus

Balbir Singh @ Dalbir Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Ashwani Gaur, Advocate for the petitioner.
Mr. Arun Singal, Advocate for the respondents.

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?

ARUN PALLI J. (Oral)

Vide order being assailed, dated 12.08.2014, rendered by Additional District Judge, Sonapat, application moved by the petitioner, seeking amendment in the written statement, had since been dismissed. The reasons assigned by the trial court in support of its order read as thus:

“5. The amendment has been sought to implead the purchaser of the land and by placing reliance upon Zarina Begum vs Faquir Hussan and another 1990 PLJ 289, Mst. Shanti and others vs Mst. Chhoto and another AIR 1983 P&H 321, Ramesh Kumar vs Kesho Ram AIR 1992 SC 700, the ld. counsel for the applicant has strongly contended that amendment needs to be allowed, as it is imperative to implead the purchaser for effective decision of the case. However the Hon’ble Supreme

Court in A.Nawab John and Ors. Versus V.N. Subramaniyam 2013(1) 107 (SC) has held that it is settled legal position that the effect of section 52 is not to render such transfers affected during the pendency of a suit by a party to the suit void; but only to render such transfers subservient to the rights of the parties to such suit as may be eventually determined in the suit. In other words, the transfer remains valid subject, of course to the result of the suit. The pendente lite purchaser would be entitled to or suffer the same legal rights and obligations of his vendor as may be eventually determined by the court. In these circumstances, whatever result would be of this appeal shall be binding on the rights of the applicant/purchaser. There is no need to amend the pleadings before the 1d. Lower Court. The law cited by the 1d. Counsel for the applicant thus is not helpful.”

Concededly, petitioner happened to be the sole defendant in the suit and as he had purchased a part of the suit property, during the pendency of the appeal on 19.03.2014, he thus, claimed to have acquired the status of a co-sharer. And, accordingly, the amendment was claimed so as to plead that he being a co-sharer in a joint holding, could not be dispossessed except by way of partition. Ex facie, the appellate court seemed to have completely missed the case set out by the petitioner in his application. Nothing is indicated either as to what was the nature of the amendment prayed and how crucial it would be to reach at a just and fair decision

in the matter. Rather, a bare reading of the order under challenge reveals that learned court simply mistook the petitioner as a transferee pendente lite. That being so, learned counsel for the respondents is hardly in a position to support the order under challenge.

Accordingly, the revision petition is accepted and the order dated 12.08.2014 is set aside. The matter is remitted to the learned first appellate court for re-decision of the application moved by the petitioner, seeking amendment in the written statement, strictly in accordance with law, within a period of one month from the receipt of certified copy of this order.

December 18, 2015
Rajan

(Arun Palli)
Judge