

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

**CR No.6909 of 2015 (O&M)
Date of decision: 15.10.2015**

Varinderpal Singh

...Petitioner

versus

Vidya Devi and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. M.J.S. Bedi, Advocate,
for the petitioner.

RITU BAHRI, J.

Challenge in this petition is to the order dated 10.08.2015 (Annexure P-5) passed by the Additional Civil Judge (Senior Division), Phul, whereby application filed by the petitioner under Order 1 Rule 10 CPC has been dismissed.

Plaintiff-Vidya Devi widow of Gurdev Singh (respondent No.1 herein) filed a suit (Annexure P-1) for declaration and possession along with partition alleging that she was a co-sharer in the suit property. In this suit, Jagan Nath was arrayed as defendant No.2, who was also a co-sharer in the property in dispute. Said Jagan Nath was her attorney and had sold her 1/7th share to his own son namely Varinderpal Singh-petitioner. This sale in favour of Varinderpal Singh was subject matter of a suit between Kulwant Rai and Varinderpal Singh. Kulwant Rai had got registered an FIR against Jagan Nath etc. alleging that he had played a fraud upon him (Kulwant Rai). As a counter blast, Jagan Nath had got file a suit from Vidya Devi. Kulwant Rai had also filed a separate suit challenging the sale made by Vidya Devi.

The present suit was filed by Vidya Devi on 08.07.2010 alleging that she was co-sharer in the property in dispute. At the fag end of the case, the present petitioner made an application dated 26.05.2015 (Annexure P-2) under Order 1 Rule 10 CPC for impleading him as a party.

This application has been dismissed by the trial Court vide order dated 10.08.2015 (Annexure P-5) on the ground that the petitioner was aware of the litigation between his father Jagan Nath and Kulwant Rai. He was also aware about the pendency of this suit against his father. Kulwant Rai got lodged an FIR against Jagan Nath etc. Kulwant Rai also filed a suit challenging the sale made by Vidya Devi, wherein Varinderpal Singh-petitioner himself was a party. Despite the above fact, at the fag end of the trial, the present application has been made by the petitioner for impleading him as a party. In any case, the suit filed by Vidya Devi was contested by Jagan Nath, father of Varinderpal Singh-petitioner and in case the suit is decided in favour of Vidya Devi that she was having 1/7th share in the suit property, then the petitioner would be entitled to get his share from Vidya Devi, as he has stepped into the shoes of her vendor i.e. Vidya Devi. Moreover, registration of FIR by Kulwant Rai against Jagan Nath, father of petitioner, couple with the fact that he was aware of the suit filed by Kulwant Rai with regard to the alleged sale deed, was sufficient to dismissed the application of the petitioner.

The judgment referred to by learned counsel for the petitioner in **Kartar Ram Vs. Gurmej Ram and others**, 2010 (5) Law Herald 3934, is not applicable to the facts of the present case, as the present petitioner was not a co-sharer to the suit property in a suit filed by Vidya Devi. He was merely a purchaser of the land from Vidya Devi. Hence, he was not necessary party in

the suit. Moreover, his father Jagan Nath, who was a co-sharer in the property, has been impleaded as defendant in the suit. Since the petitioner was not a co-sharer in the property, his application has been rightly dismissed by the Trial Court.

In view of the above, no ground is made out to interfere in the impugned order.

Dismissed.

(RITU BAHRI)
JUDGE

15.10.2015
ajp