

201

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

CR No.7202 of 2011 (O&M)

Date of decision: July 15, 2015

Adarsh Taneja and others

.....Petitioners

Versus

Vijay Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. I.S. Saggu, Advocate
for the petitioners.

Mr. Kulbhushan Sharma, Advocate
for respondent No.2.

SABINA, J

Petitioners have filed this petition challenging the order dated 19.10.2011.

Learned counsel for the petitioners has submitted that respondent Nos.1 and 2 have filed suit for specific performance of agreement to sell dated 10.04.2002 and have challenged the sale-deed dated 04.05.2007 executed by respondent No.3 in favour of respondent No.4. Petitioners are the legal heirs of deceased-Bishan Dass. Hence, they were liable to be impleaded as party to the suit.

Learned counsel for the respondent No.2, on the other hand, has opposed the petition.

In the present case, respondent Nos.1 and 2 have filed suit for specific performance of agreement to sell dated

10.04.2002 executed by respondent No.3 in favour of respondent No.1 and have challenged the sale-deed dated 04.05.2007 executed by respondent No.3 in favour of respondent No.4. During the pendency of the suit, petitioners moved an application under Order 1 Rule 10 of Code of Civil Procedure, 1908 for being impleaded as legal heirs of Bishan Dass. The case of the petitioners was that Bishan Dass had died on 04.07.2003 and they were his legal heirs. A perusal of the impugned order reveals that the trial Court has not discussed the matter as to whether the petitioners were the legal representatives of deceased Bishan Dass or not. Thus, while dismissing the application moved by the petitioners, trial Court has failed to consider the plea raised by the petitioners that they were liable to be impleaded as party to the suit being legal heirs of deceased Bishan Dass.

In these circumstances, the impugned order dated 19.10.2011 is set aside. Trial Court is directed to pass a fresh order in accordance with law.

Petition stands disposed of, accordingly.

**(SABINA)
JUDGE**

July 15, 2015

m.singh