

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

CR No. 6854 of 2014 (O&M)

Date of decision: October 15, 2015

Poonam

...Petitioner

Versus

S.P. Shrikul and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

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

Present: Mr. Chanderhas Yadav, Advocate,
for the petitioner.

Mr. KK Saini, Advocate,
for respondent No.2.

K. KANNAN, J. (Oral)

1. The plaintiff filed a suit for injunction against the owner of the property praying that on account a dispute between herself and her husband, the property which was once a matrimonial home was sought to be disturbed from her possession. A third party to the suit, who claims to have entered into an agreement with the original owner, wanted to implead himself as party contending that the husband in whose name an agreement was said to have been written did not have the consideration to pay and he has parted with consideration to the tune of Rs. 70 lakhs and he has an agreement of purchase in his favour. The third party wanted his impleadment in the suit for injunction and the court has allowed for the

same.

2. In a suit for injunction against the owner of the property, a third party who claims that he has an agreement could have no say. If he holds merely an agreement, his remedy is to obtain enforcement of the agreement by taking a sale and take independent action for ejectment against the plaintiff in accordance with law. A third party holding an agreement cannot be heard in the suit for injunction brought by the wife on a plea that her husband was colluding with the original owner to eject her out of her matrimonial home. Section 26 of the Protection of Women from Domestic Violence Act, 2005 allows for incorporation of the benefit of the provision of the Act in all civil and criminal proceedings. One of the most potent rights is to secure adequate protection of a women from being thrown out of her own matrimonial home. That said provision ought to be taken as incorporated and the plaintiff will be protected in her possession and the court will only examine whether the plaintiff is in possession of the property or hold a shared household along with her husband at any point of time during marriage. The suit for injunction cannot be converted to an adjudication on title or consideration of equitable right of enforcement of agreement for a defendant. The impleadment is bound to create a confusion and enlarge the scope of the suit to the disadvantage of the plaintiff. The impleadment ordered is erroneous and it is set aside and the revision is allowed with the above observations.

October 15, 2015
prem

(K.KANNAN)
JUDGE