

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 7450 of 2015

DATE OF DECISION : November 16, 2015

Kirpal Singh

..... PETITIONER(S)

VERSUS

Sumit Sharma & ors.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. B.S. Baath, Advocate, for the petitioner.

...

1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO
2. To be referred to the Reporter or not? YES
3. Whether the judgment should be reported in the digest? YES/NO

...

ARUN PALLI, J. (Oral)

Vide order being assailed, dated 31.07.2015, rendered by Civil Judge (Junior Division), Gurdaspur, an application moved by the petitioner under order 1 Rule 10, Code of Civil Procedure, to be arrayed as party defendant had since been dismissed. And the conclusion recorded in this regard reads, as thus:-

“Arguments heard. Case file perused. The applicant in proof of his ownership has brought on

record copy of Jamabandi wherein the total area of the property is shown as 4 kanals Marlas and the land is shown as "Gair Mazrui" which is cultivable. There is nothing on the revenue record which shows that any house is existing on the land shown in the Jamabandi produced by the applicant. On the other hand, the plaintiff in his suit contends that house fall in the land which is in "Lal Lakeer" and has no Khasra Girdawari and further stated that total area of the house is 7-1/2 Marlas. The dimensions of the house given in the plaint is admitted by DW-1 in his cross-examination as well as specific questions regarding the dimensions were put to PW-1 during his cross-examination and she stated verbatim as mentioned in the plaint. Therefore, applicant has not been able to show that property in question is the same towards which he is basing his claim. Moreover, the application seems to be filed to delay the trial of the case and that too on the fag end of the trial. The applicant is residing in the same village and he is grandfather of defendant No. 1 and defendant No. 2 is her daughter-in-law and thus it is not possible that he was not aware about ongoing litigation and therefore applicant deliberately did not come forward to pursue his claim earlier. Therefore, in these circumstances present application stands dismissed."

Concededly, plaintiff has sought specific performance of the agreement to sell dated 18.06.2010, purportedly executed by defendants No.1 and 2. For, the petitioner is not a party to the contract, neither any relief is being claimed nor the alleged agreement is enforceable against him. Nothing was brought on record to show that the petitioner was in possession of the suit land either. In any case, rights of the petitioner are

not likely to be affected by any decision that shall be rendered in the present suit. Therefore, application moved by the petitioner was rightly declined as he was neither a necessary nor a proper party.

That being so, no interference is warranted in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being devoid of merit is, accordingly, dismissed in limine.

NOVEMBER 16, 2015
Kang

(ARUN PALLI)
JUDGE