

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.858 of 2015
Date of decision: 09.02.2015

Krishan

....Petitioner

Versus

Bharat Kumar and another

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Munish Kumar Garg, Advocate for the petitioner.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition filed under Article 227 of the Constitution of India by the defendant is to the order dated 10.12.2014 whereby the Civil Judge (Senior Division), Jind has allowed the application for impleadment of one Hem Chand as a party and also allowed the plaintiff to amend the suit and raise challenge to the sale deeds executed by the present petitioner in favour of the said person.

The reasoning given by the trial Court is that sale deed dated 23.5.2011/26.8.2011 has been executed in favour of Hem Chand and though the issues have been framed on 22.11.2011 and evidence has also been partly led but since it is a subsequent event which has occurred after filing of the suit and during the pendency of the suit, therefore, plaintiff is entitled for impleading Hem Chand as necessary party and by imposing costs of ₹ 500/-, the application has been allowed.

Counsel for the petitioner has vehemently submitted that the necessary party was one Surat Singh in favour of whom the release deed had been executed. The sale deed had been executed during pendency of the suit, therefore, there was no necessity to implead Hem Chand.

After hearing counsel for the petitioner, this Court is of the opinion that the order passed by the trial Court is well justified. Admittedly, the suit for

was filed on 8.6.2011 for the specific performance of agreement dated 14.7.2008 for the land measuring 8 Biswas. The petitioner-defendant in his written statement never brought to the notice of the Court that the sale deed dated 23.5.2011 and corrected/modified on 26.8.2011 had been executed in favour of Hem Chand. The application was thereafter filed by the plaintiff on coming to know regarding the factum of sale deeds and he resultantly also sought a declaration that the sale deed in favour of said Hem Chand be also declared as illegal, null and void. It is settled principle that the plaintiff is master of his suit and keeping in the view the principle of *dominus litis*, the petitioner-defendant has no locus standi to object as to whether Hem Chand has been rightly impleaded or not. In case Hem Chand is found not to be necessary party at later stage, no relief will be granted against him and therefore, it does not lie in the mouth of the petitioner and to agitate the same before this Court. Resultantly, amendment has been allowed by ensuring that the whole controversy is resolved by the Court in the civil litigation rather than the plaintiff filing a separate suit challenging the sale deeds which had been executed in favour of Hem Chand just prior to the filing of the suit and modified subsequently. In such circumstances, jurisdiction which has been exercised by the trial Court does not warrant any interference.

Accordingly, the present revision petition is dismissed.

09.02.2015
Pka

(G.S.SANDHAWALIA)
JUDGE