

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 900 of 2014 (O&M)
Date of decision: 1.7.2015

Krishna Devi and others

.. Petitioners

v.

Puran Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Prashant Bansal, Advocate for the petitioners.

Mr. S. P. Singh, Advocate for

Mr. S. S. Sarwara, Advocate for respondents No. 8 and 9.

Mr. Rupam Aggarwal, Deputy Advocate General, Punjab
for respondents No. 10 and 11.

None for the remaining respondents.

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Rajesh Bindal J.

Challenge in the present petition is to the order dated 29.8.2013, passed by the court below, whereby the application filed by the petitioners-plaintiffs for impleading Amrik Singh son of Joginder Singh, Paramjit Singh son of Som Nath and Punjab Agricultural Development Bank, Rajpura as defendants in the suit, was dismissed.

Learned counsel for the petitioners submitted that the suit was filed seeking declaration that the plaintiffs are owners to the extent of 1/4h share in the suit property. Challenge was also made to sale deed dated 19.1.2006 executed by respondents No. 1 to 5 in favour of respondents No. 6 and 7 and sale deed dated 25.1.2007 executed by respondents No. 6 and 7 in favour of respondents No. 8 and 9. The suit was filed on 24.2.2010. As during the pendency of the suit, respondents No. 8 and 9 sold the property

vide sale deed dated 20.10.2010 to Amrik Singh and Paramjit Singh, which was mortgaged by Paramjit Singh with Punjab Agricultural Development Bank, the transaction having taken place during the pendency of the suit, to avoid any future complication, they were sought to be impleaded as parties to the suit. The learned court below had dismissed the application on an erroneous premise that in the jamabandi for the year 2006-2007, annexed by the petitioners-plaintiffs with the suit, the factum of sale of land to Amrik Singh and Paramjit Singh was already mentioned, hence, they should have been impleaded as defendants when the suit was initially filed. The suit was filed on 24.2.2010. The sale deed itself was registered on 20.10.2010, hence, there was no question of production of jamabandi by the petitioners with the suit recording transaction of sale in remarks column. The learned court below had wrongly perused the jamabandi produced by the respondents-defendants, which contained that entry in the remarks column, hence, the order deserves to be set aside.

On the other hand, learned counsel for respondents No. 8 and 9 submitted that once the petitioners were aware of the factum of sale of the property in dispute to Amrik Singh and Paramjit Singh, they should have been impleaded as party in the suit, when the same was initially filed. The object is merely to delay the proceedings.

After hearing learned counsel for the parties, I find merit in the submissions made by learned counsel for the petitioners. In the application filed by the petitioners under Order 1 Rule 10 CPC, the prayer was to implead Amrik Singh, Paramjit Singh and Punjab Agricultural Development Bank as defendants in the suit on the plea that after filing of the suit, respondents No. 8 and 9 had sold the property to Amrik Singh and Paramjit Singh on 20.10.2010. The said property was mortgaged by Paramjit Singh with Punjab Agricultural Development Bank. The learned court below has dismissed the application on a wrong premise while recording that in the jamabandi produced by the petitioners with the plaint, the factum of sale in favour of Amrik Singh and Paramjit Singh was already recorded in remarks column, hence, the petitioners being in knowledge thereof were required to implead them as party at the time of filing of the suit and any application

filed subsequently for the purpose is merely with an object to fill in lacuna, is erroneous. The court below failed to take into notice the fact that the suit was filed on 24.2.2010 and jamabandi annexed with the plaint must be showing the position of the land in revenue record upto that date. The sale of land by respondents No. 8 and 9 to Amrik Singh and Paramjit Singh was effected on 20.10.2010, which is a date subsequent to the date of filing of the suit, hence, in the jamabandi produced by the petitioners along with the plaint, there cannot be any possibility of entry regarding the sale of land made in October, 2010.

The contention of learned counsel for the petitioners seems to be more plausible that wrongly the jamabandi produced by the defendants was perused, as the same was also for the year 2006-07, but having been prepared after the sale transaction in favour of Amrik Singh and Paramjit Singh, it contained the entry of sale in remarks column.

For the reasons mentioned above, the impugned order dated 29.8.2013, passed by the court below is set aside. The application under Order 1 Rule 10 CPC filed by the petitioners is allowed.

The petition stands disposed of.

(Rajesh Bindal)
Judge

1.7.2015
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