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HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 245 of 2016**

Prabhat Kumar Dubey, S/o Bihari Lal Dubey, aged about 57 years, R/o D-16, Near Career School, Gayatri Mandir, Vinoba Nagar, near Durga Pandal, Bilaspur, Tahsil and District – Bilaspur (C.G.) Defendant No.1

---- Petitioner**Versus**

1. Smt. Sandhya Goyal, W/o Sudhanshu Prakash Goyal, aged about 54 years, through power of attorney holder Sundhashu Goyal, R/o D-6, Sector-2, Devendra Nagar, Raipur at presently residing at 5037B, Sector 38, West Chandigarh (Punjab) **Plaintiff**

2. Smt. Jyoti Varyani, W/o Shri Prakashchand Varyani, aged about 52 years, R/o D-16, Devendra nagar, Raipur, Tahsil and District – Raipur (C.G.) (Added new party)

---- Respondent

For Petitioner : Mr. H.B. Agrawal, Senior Advocate
with Mr. Badruddin Khan, Advocate

For Respondent No. 2 : Mr. Ankur Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****14/12/2016**

(1) Invoking jurisdiction of this Court under Article 227 of the Constitution of India, this writ petition has been filed by defendant No.1, petitioner herein, by which the trial Court has allowed the plaintiff's application filed under Order 1 Rule 10 of the Code of Civil Procedure impleading subsequent purchaser – Smt. Jyoti Varyani as party defendant in the suit , against which instant writ petition under Article 227 of the Constitution of India has been filed.

(2) Learned Senior counsel appearing for the petitioner would submit that subsequent purchaser could not have been impleaded as party defendant in the suit. He relied upon the decision of the Supreme Court in the matter of ***Vijay Pratap & others Vs. Sambhu Saran Sinha & others***¹ & ***J.J. Lal Pvt. Limited & others Vs. Mr. Murali & another***² in support of his submission.

(3) Per contra, Shri Ankur Agrawal, learned counsel for defendant No.2 would submit that the defendant No. 2 had purchased the suit property from respondent No. 1 after three years of the passing of the *ex parte* decree and even the Supreme Court at the instance of present respondent No. 2 set aside the order of this Court passed in First Appeal No.146 of 2012 in which this Court has held that defendant No. 2 shall return the land in dispute to the petitioner/defendant No.1. He relied upon the judgment of the Supreme Court in the matters of ***Thomson Press (India) Limited Vs. Nanak Builders and Investors Private Limited and others***³ & ***Kasturi Vs. Iyyamperumal and others***⁴ in support of his submissions.

(4) I have heard learned counsel appearing for the parties and perused the record with utmost circumspection.

(5) After hearing learned counsel appearing for the parties, and in view of the law laid down by the Supreme Court in the matter of ***Kasturi*** (supra) & ***Thomson Press (India) Limited***

1 1996 (X) SCC 53

2 2002 (3) SCC 98

3 (2013) 5 SCC 397

4 (2005) 6 SCC733

(supra), this Court is of the opinion that the trial Court has exercised its judicial discretion to allow the application for impleadment and the proposed defendant No. 2- Smt. Jyoti Varyani appears to be proper or necessary parties, this Court would not interfere with the exercise of judicial discretion by the trial Court in exercise of power under Article 227 of the Constitution of India.

(6) Having heard learned counsel for the parties and having perused the impugned order, this Court does not find any such illegality or perversity committed by the Court below which would warrant exercise of jurisdiction under Article 227 of the Constitution of India.

(7) Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-