

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

CR No.1331 of 2016 (O&M)

Date of decision : 28.07.2016

Ved Kumar

...Petitioner

Versus

Sultan Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Pankaj Jain, Advocate for the petitioner.

Mr. N.D. Achint, Advocate for respondent No.1.

AMIT RAWAL, J. (Oral)

The petitioner-plaintiff is aggrieved of the impugned order, whereby application under Order 6 Rule 17 CPC read with Order 1 Rule 10, of Code of Civil Procedure seeking conversion of the suit from permanent injunction filed in the year 2012 into specific performance seeking agreement to sell dated 02.07.2011, has been dismissed.

Mr. Pankaj Jain, learned counsel appearing on behalf of petitioner submits that stipulated date for execution and registration of the aforementioned agreement to sell was 24.11.2011 with further stipulation that in case if there is any defect legal or related to question of title, the

target date would be deemed to be extended till the date of decision of such dispute. The property was already under the subject matter of the litigation i.e. RSA No.3125 of 1985. He further submits that application seeking amendment of the plaint dated 06.08.2015 would not be barred by law of limitation and thus urges this Court for allowing the application under challenge and for setting aside of the impugned order.

Mr. N.D. Achint, learned counsel appearing on behalf of respondent No.1 submits that amendment cannot be related back to the filing of the suit as the application is dated 06.08.2015 and the sale deed executed by Vendor in favour of subsequent vendee is of the year 2011 and, therefore, more than three years period has been elapsed and, therefore, specific performance of agreement to sell cannot be permitted at this stage. Moreover, this fact was in the knowledge of the petitioner and, therefore, there is no compliance of the expression “despite exercise of due diligence” and thus urges this Court for affirmation of the findings under challenge.

I have heard learned counsel for the parties and appraised the paper book and of the view that no doubt that application seeking amendment of the plaint is dated 06.08.2015 and the suit for permanent injunction was filed in January, 2012. The target date for execution of the agreement to sell was 24.11.2011 with the stipulation that in case property have no defect in title then the stipulated date would be reckoned from the date of decision of the aforementioned litigation i.e. RSA No.3125 of 1985 in respect of suit property, which was stated to have been pending but the same has been decided by this Court on 10.02.2016, therefore, application seeking amendment of the plaint converting the suit from permanent

injunction into specific performance, in my view, cannot be said to have been barred by law of limitation. However, as regards the plea of impleadment, this Court cannot remain oblivious to the Section 21 of the Limitation Act. Impleadment of the subsequent vendees would be reckoned from the date of their impleadment in view of the aforementioned provision.

Application seeking amendment of the plaint with the aforementioned condition shall stand allowed.

In view of the aforementioned reasons, I am of the view that impugned order is hereby set aside. Revision petition is disposed of in aforementioned terms.

28.07.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned: Yes

Whether reportable:- Yes/No