

Civil Revision No.2575 of 2015 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R.No.2575 of 2015 (O&M)

Date of Decision: July 13, 2016

1. C.R.No.2575 of 2015 (O&M)

Nitin Goyal

...Petitioner

Versus

Ramesh Aggarwal & others

...Respondents

2. C.R.No.2577 of 2015 (O&M)

Nitin Goyal

...Petitioner

Versus

M/s Global Commodities Pvt.Ltd., & others

...Respondents

3. C.R.No.2623 of 2015 (O&M)

Nitin Goyal

...Petitioner

Versus

M/s Global Commodities Pvt.Ltd., & others

...Respondents

4. C.R.No.2625 of 2015 (O&M)

Nitin Goyal

...Petitioner

Versus

M/s Global Commodities Pvt.Ltd., & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.Randhir Singh Hooda, Advocate,
for the petitioner in all the petitions.

Mr.Barjinder Singh, Advocate,
for respondent No.3 in CR Nos.2577, 2623 and 2625 of
2015 & for respondent No.4 in CR No.2575 of 2015.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of four Revision Petitions bearing No.2575, 2625, 2577 and 2623 of 2015. Civil Revision Nos.2625, 2577 and 2623 of 2015 are directed against the orders, whereby the applications at the instance of Misruddin for being impleaded in the suits have been allowed, whereas Civil Revision No.2575 of 2015 is directed against the order, whereby the application at the instance of Ramesh Aggarwal and Gopal Parshad Aggarwal for being impleaded as defendants, has been allowed.

Mr.Randhir Singh Hooda, learned counsel for the petitioner-plaintiff submits that in pursuance to the four agreements to sell dated 25.5.2008, plaintiffs had filed suits for permanent injunction as they were allegedly put into possession by taking the aid of Section 53 of the

Industries Pvt.Ltd. through Director Chander Parkash Bhalotia. In Civil Revision No.2575 of 2015, Ramesh Aggarwal and Gopal Prashad Aggarwal moved an application for being impleaded as defendants on the ground that on the date of execution of the agreement to sell, Chander Parkash Bhalotia was not even Director of the Company and he was removed in the year 1994 and, therefore, there was a collusion between the plaintiffs and aforementioned person. In fact, the erstwhile defendant had not filed the written statement and in order to wriggle out the wrath of striking of the defence, contested the suit. As regards the other three suits, Misruddin moved an application on same terms that Chander Parkash Bhalotia was not the Director of the Company, namely, M/s Global Commodities Pvt.Ltd. and, therefore, his presence is essential and necessary for the adjudication of the lis.

There is no representation on behalf of the contesting respondents despite dasti service.

I have heard the learned counsel for the parties, appraised the paper book and of the view that once the trial Court was of the opinion that Chander Parkash Bhalotia was not the Director of both the Companies, i.e., M/s Bhalotya Industries Pvt.Ltd and M/s Global Commodities Pvt.Ltd. and had resigned in the year 1994, he could not have entered into agreements to sell on 25.5.2008. The law of

impleadment has been debated by the Hon'ble Supreme Court in **Thomson Press (India) Ltd. Versus Nanak Builders & Investors P.Ltd. and others, 2013(2) R.C.R. (Civil) 875.** Once the newly added respondents are alleging fraud at the instance of the erstwhile Director, the guidelines laid down by the Hon'ble Supreme Court in the aforementioned case squarely apply to the facts and circumstances of the present case and the presence of the aforementioned proposed person would be essential and necessary to contest the suit. In such situation, the principle of *dominus litus* would not apply.

There is also no force in the submission of Mr.Hooda that in order to wriggle out the wrath of the striking of the defence at the instance of the impleaded defendants, the application was moved, for, once the proposed applicant-defendants have alleged malafide, probably there must have been apparent collusion.

I do not find any illegality and perversity in the orders under challenge. The same are in consonance with the principles culled out in **Thomson Press (India) Ltd.'s case (supra).** No ground for interference is made out.

The revision petitions are dismissed.

July 13, 2016
ramesh

(AMIT RAWAL)
JUDGE