

Civil Revision No. 278 of 2016

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 278 of 2016

Date of Decision: 24.5.2016

Ranjit Singh @ Ladhar

--- Petitioner

versus

Gurdev Singh @ Dev Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. S.K.Singla, Advocate
for the petitioner
Mr. Ranjan Lakhanpal, Advocate
for respondent Nos. 1 to 3
Mr. Parveen K.Kataria, Advocate
for respondents No. 7 and 8

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

Rekha Mittal, J.

Challenge in the present petition has been laid to order dated

14.9.2015 passed by the Civil Judge (Junior Division), Moga whereby application (Annexure P-3) filed by respondents No. 1 to 3/plaintiffs under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure (in short “CPC”) has been allowed.

Counsel for the petitioner (defendant no. 4) has submitted that Gurdev Singh and others respondents No. 1 to 3 have filed a suit for permanent injunction restraining the defendants Joginder Singh and others including the petitioner from alienating land measuring 16 kanals 2 marlas, detailed in head note of the plaint as per jamabandi for the year 2002-03 situated in the area of village Dharamkot Janubi District Moga. After about two years of institution of the suit, the instant application was filed for impleading Sunil Sachar and Lakhwinder Singh respondents No. 7 and 8 as defendants No. 5 and 6 on the plea that after an order of status quo regarding alienation has been passed, defendant No. 5 Sunil Sachar executed sale deeds bearing vasika Nos. 2000 and 2001 dated 19.12.2014 in favour of proposed defendant No. 6 namely Lakhwinder Singh and both the sale deeds are hit by doctrine of lis pendence and are executed after passing of status quo order dated 13.9.2013. It is argued that the sale deeds dated 19.12.2014 have not been executed by any of the defendants arrayed as such

in the original suit, therefore, there was no question of the sale deeds being hit by principle of lis pendence. In addition, it is argued that cause of action to seek injunction against defendants No. 5 and 6 if any, arose after 19.12.2014, therefore, the learned trial Court has committed a serious error rather illegality in allowing application of the plaintiffs for impleading Sunil Schar and Lakhwinder Singh as additional defendants.

Counsel for the contesting respondents/plaintiffs, on the contrary, has supported the impugned order with the submissions that in case the respondents are not permitted to implead defendants No. 5 and 6 as a party in the present suit, they may be constrained to file another suit against them which would lead to multiplicity of proceedings. Another submission made by counsel is that no prejudice would be caused to the petitioner in case defendants No. 5 and 6 are joined as a party in the present suit.

I have heard counsel for the parties and perused the records particularly the order impugned.

It is an admitted position of the case that as per averments raised in the application filed under Order 1 Rule 10 read with Section 151 CPC, suit land has not been alienated by any of the defendants who are

already a party to the lis in which an order of status quo against alienation was passed in the year 2013. A sale by a person who is not party to the suit in favour of another is not hit by the principle of lis pendence as has been sought to be claimed. This apart, if the respondents/plaintiffs have any grievance to express against defendants No. 5 and 6, the cause of action, if any, accrued during pendency of the suit and the same is independent of cause of action pleaded against defendant Nos. 1 to 4. The mere fact that the plaintiffs may be competent to file another suit against defendants No. 5 and 6 is not sufficient to implead them as a party in the pending suit.

The learned trial Court, after taking note of the provisions of Order 1 Rule 10 CPC has simply held that the said defendants are necessary to be impleaded in the present suit for effective adjudication of the case on merits as the plaintiffs are having apprehension that Lakhwinder Singh and Sunil Sachar will transfer property on the strength of sale deeds. It is beyond comprehension nor counsel for the plaintiffs is in a position to explain as to how absence of Lakhwinder Singh and Sunil Schar would render the trial court handicap to adjudicate the suit effectively qua their claim of injunction against the defendants already on record. In this view of the matter, I find merit in contention of the petitioner that the impugned

order suffers from gross error and thus cannot be allowed to sustain.

For the foregoing reasons, the petition is allowed, the impugned order is set aside and as a natural corollary, the application filed by the respondents under Order 1 Rule 10 CPC for impleadment of Sunil Schar and Lakhwinder Singh is ordered to be dismissed. However, nothing stated in this order shall prejudice rights of the contesting respondents to take recourse to appropriate proceedings, in accordance with law, for redressal of their grievance, if any, against Sunil Sachar and Lakhwinder Singh.

(Rekha Mittal)
Judge

24.5.2016

PARAMJIT