

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

CR No.4081 of 2015 (O&M)

Date of decision : 27.05.2016

M/s Modern Buildtech Pvt. Ltd.

...Petitioner

Versus

Santosh Kumar and others

...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. Birinder Singh Khehar, Advocate for the petitioner.

Mr. Adish Gupta, Advocate for respondent No.1.

Mr. D.K. Mittal, DAG, Haryana for respondent No.4.

AMIT RAWAL, J. (Oral)

The petitioner-applicant is aggrieved of the dismissal of the application filed under Order 1 Rule 10 seeking impleadment in suit for permanent injunction instituted at the instance of the respondent No.1-plaintiff namely Santosh Kumar, who sought aforementioned relief from forcible dispossession and interference at the instance of the defendant No.1-Desh Raj Bhadana on the ground that there exists relationship of landlord and tenant.

Mr. Birinder Singh Khehar, learned counsel appearing on behalf of the petitioner submits, that aforementioned suit was filed in the year 2012 and immediately after two months, application was filed on the premise that

they have acquired right and title in the interest by virtue of agreement dated 23.10.2007 and subsequently sale deed dated 20.05.2014 in respect of land in dispute in pursuance to the judgment and decree passed in Civil Suit No.414 of 2013 titled as M/s Modern Buildtech Private Limited Vs. Aruna Sharma and others.

He submits that there is apparent collusion between the plaintiff and defendant No.1 thus there an apprehension that there may not be any cloud on title and it is in this regard, application was moved. In support of contention, he has relied upon judgment rendered by Hon'ble Supreme Court of India in *Thompson Press India Ltd. Vs. Nanak Builders and Investors and others, 2013(5) SCC 397*, to contend that principles culled out therein though in suit for specific performance shall also apply in such matters.

Mr. Adish Gupta, learned counsel appearing on behalf of respondent No.1-plaintiff submits that in a suit for permanent injunction title is never involved as landlord may not be owner. Threat was only against the respondent-tenant. Being dominus litus, the third party even if claimed right and title would not be proper and necessary party, and rightly so, the application has been dismissed as trial Court has rightly observed that even if decree is passed in favour of the plaintiff shall not affect the right of the petitioner in any manner and, therefore, it would be totally unnecessary to implead the petitioner as defendants and, thus, urges this Court for affirmation of the findings rendered by the trial Court.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is force and substance in the submission of Mr. Khehar, for, no doubt even issue of title has not been framed, but during the trial some evidence may not be led foisting the cloud on the title of the

property in lieu of the agreement and sale deed referred above. The role of the petitioner is only to protect his right and interest and, though, he may not be proper party and cannot be regarded as unnecessary and thus in these circumstances having acquired interest and right in the property, the landowners may not be having any interest in the property, much less, may not pursue the suit. All these apprehensions are in my view justifiable. Had such application is moved at belated stage, perhaps this Court would not have envisaged such apprehension.

Keeping in view the aforementioned facts and circumstances of the case, I am of the view that petitioner-applicant is necessary party in the aforementioned suit for the purpose of protecting his right, interest in the property acquired by virtue of the agreement and sale deed.

Resultantly, impugned order is set aside.

Application under Order 1 Rule 10 is allowed.

Petitioner is directed to be impleaded as defendant No.4. Since suit is at the stage of framing of issues, liberty is granted to file written statement and replication if any.

Revision petition is allowed.

Nothing stated herein above, shall be construed an expression of opinion on the merits of the suit.

27.05.2016

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(AMIT RAWAL)
JUDGE