

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.538 of 2016

Date of Decision.28.01.2016

Paramjit Singh

.....Petitioner

Vs.

Gurmail Singh and others

.....Respondents

Present: Mr. Sherry K. Singla, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. In a suit for declaration and injunction brought by a plaintiff on the basis of an alleged unregistered sale deed dated 28.07.1960 against the legal representatives of Mall Singh, a third party has moved an application for impleadment. The suit for declaration is of the year 1999 and a third party who sought for impleadment claimed himself to be holding a rival agreement of sale executed by the legal representatives of Mall Singh on the basis of which the third party claims that he has filed the suit for specific performance and that suit is pending. The third party states that his own impleadment in the suit will secure a binding declaration of who was the owner of the property, for otherwise there would be a conflict with the judgments. The counsel refers to me a judgment of this Court in **Aflatoon Vs. Shyam Lal and others 2006(4) ICC 572** where in a suit for declaration, the defendant who had entered into an agreement was a third person

against whom the suit had been filed. The Court was allowing for impleadment and if such an impleadment was ordered, there was no necessity for a High Court to interfere with the same.

2. The Court was not considering whether such impleadment could always be made. The Court was not making an interference in a situation where the Court had allowed for such impleadment. In this case, the impleadment is sought by a person who purports to hold an agreement and filed a suit for the specific performance. The plaintiff who sues for injunction on the basis of a claim to title to the property has a right to choose his own defendant and his suit cannot be cluttered by the presence of persons against whom he does not want to secure an adjudication. The plaintiff is *dominus litus* and an interference at the instance of third party who claims an interest in the property, has still not a sale deed in his favour but he has only referred to his suit for specific performance as the basis for impleadment. The suit instituted by the plaintiff in the year 1999 cannot be sought to be stultified by a person claiming under an agreement and if the Court has not allowed for such impleadment, I will not find any error for interference in the revision petition.

3. The revision petition is dismissed.

(K. KANNAN)
JUDGE

January 28, 2016
Pankaj*