

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 594 of 2016

Date of Decision: 06.04.2016

Smt. Priti Bala and Another

... Petitioner(s)

Versus

Parvesh and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. Mrigank Sharma, Advocate
for the petitioner(s).

Mr. Vikas Mohan Gupta, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 4.12.2015, passed by learned Civil Judge (Junior Division), Sonapat whereby application under Order 6 Rule 17 CPC read with Order 1 Rule 10 CPC and Section 151 CPC for amendment of the plaint and for addition of parties was allowed.

Relevant facts of the case that civil suit titled "Parvesh and Another v. Priti Bala and Another" was filed for seeking permanent

injunction and during pendency thereof, an application under order 6 Rule 17 CPC read with Order 1 Rule 10 CPC and Section 151 CPC was filed by the plaintiffs and the same was allowed by the Court below after taking into consideration the relevant facts.

Learned counsel for the petitioners submitted that the impugned order is liable to be set aside because earlier, the finding of Civil Court had come in the year 2011 vide order dated 29.9.2011 (Annexure P7) that plaintiffs were not in possession of the suit property and the same was with the bank. Subsequently,, in the year 2015, the Court returned the finding that plaintiffs were in possession and have been forcibly dispossessed subsequent to the filing of the suit and on that basis amendment was allowed and the said order is liable to be set aside. Undisputedly, at the time of filling of the present suit, possession of the suit property was with the bank. An application under Order 39 Rules 1 & 2 CPC was filed on 29.9.2011 and in the amendment application, plea was taken that forcible possession was taken on 28.9.2011 and the application was filed after a period of more than two years i.e. on 20.10.2013. That conduct of the applicants reflects that the same was misuse of process of law on the part of the plaintiffs and as such impugned order is liable to be set aside.

While arguing on this point, learned counsel for the respondents submitted that against order dated 29.9.2011, appeal was filed and subsequently, the same was withdrawn on 7.9.2013 as the possession was forcibly taken away. Thereafter, present application was filed on 21.10.2013. The appeal was withdrawn because Darshan Lal

had taken over the possession on the basis of sale deed. The Court below has considered all these facts while passing the impugned order and present petition is liable to be dismissed.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that defendants admitted the fact that they had sold the suit property to one Darshan Lal during pendency of the suit. The main suit was pending before the Court below having been filed by the plaintiffs for permanent injunction to restrain the defendants from interfering into their peaceful possession over the suit property. As during pendency of the suit, defendants sold the property to Darshan Lal, the amendment sought for had become most essential and relevant for the just decision of the case. The Court below has rightly accepted the application for impleadment of the said Darshan Lal and for amendment of the pleadings to that effect. There is absolutely no illegality in the order under challenge and present petition is without any merit and the same stands dismissed.

(Shekher Dhawan)
Judge

April 6, 2016

"DK"