

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

C.R. No.6337 of 2016

Date of Decision.17.11.2016

2. C.R. No.6340 of 2016

Resham Singh

.....Petitioner

Vs

Balwinder Singh

.....Respondent

Present: Mr. Achin Gupta, Advocate
for the petitioner.

Mr. Gurbir Singh Sandhu, Advocate
for the respondent.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

This order of mine shall dispose of aforementioned two revision petitions.

The petitioner-plaintiff is aggrieved of the dismissal of the application filed under Order 6 Rule 17 CPC seeking amendment in the plaint by adding Sandeep Kaur w/o Balwinder Singh as defendant No.2 in the array of defendants.

The pith and substance of the plaint is with regard to action of defendant and Sandeep Kaur, who is sought to be impleaded as defendant No.2 but due to inadvertence, the name of Sandeep Kaur was not added in the array of defendants.

Learned counsel for the petitioner further submits that the sale deed was executed in favour of the wife-Sandeep Kaur but the cheque for execution of the sale deed was issued by Balwinder Singh, which has been dishonoured and the suit has been filed for recovery of the aforementioned amount. The presence of the beneficiary of the sale deed i.e. Sandeep Kaur

Mr. Sandhu, learned counsel appearing for the respondent submits that in case of dishonour of cheque, the beneficiary of the transaction cannot be held responsible vicariously. In support of his contention, he relies upon judgment rendered by Hon'ble Supreme Court in *Mrs. Aparna A. Shah Vs. M/s Sheth Developers Pvt. Ltd. and another 2013(3) RCR (Civil) 680*, thus, urges this Court for dismissal of the revision petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submission of Mr. Gupta. The suit is at initial stage and the averments in the plaint are with regard to both the parties but Sandeep Kaur was not impleaded as party. No prejudice would be caused to the defendant, who is none else but husband of Sandeep Kaur. It would help the Court for adjudication of the lis. The plaintiff may not face the wrath of non-impleadment of the proper party at the final stage of the suit.

There is no dispute to the judgment referred by the counsel for the respondent-defendant. No doubt, every person, who is said to be vicariously liable, cannot be made party in criminal proceedings but in view of the facts noticed above, the issue at lis in the present case is purely of civil nature and therefore, it would not apply.

For the reasons aforementioned, the impugned orders are set aside. The applications for amendment are accordingly allowed. Sandeep Kaur is ordered to be impleaded as defendant Nos.2. Both the revision petitions are allowed.

(AMIT RAWAL)
JUDGE

November 17, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No