

CR No.6828 of 2016

{1}

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.6828 of 2016

Date of decision:07.10.2016

Sita Rani and another

... Petitioners

Vs.

Anil Gulati and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arun Bansal, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioners are aggrieved of the impugned order dated 12.09.2016 (Annexure P-13), whereby, an application for deleting the name of petitioner No.1 as defendant No.3, has been dismissed.

Mr. Arun Bansal, learned counsel appearing on behalf of the petitioners submits that an agreement to sell was entered into by defendants No.1 and 2 in respect of the property owned by Rameshwar Dass Goel with the respondent/plaintiff. The respondent/plaintiff instituted the suit seeking recovery of the amount. Once petitioner No.1 is not a signatory to the agreement of sell, the suit against her was/is not maintainable as she is neither a necessary nor a proper party to adjudication of the lis.

In support of his contention, he relies upon the ratio decidendi culled out by the Hon'ble Supreme Court in Anil Kumar Singh vs. Shivnath Mishra alias Gadasa Guru 1995(1) RRR 660.

He further submits that the object to bring on record all the persons is the one who are already party to the dispute. Once petitioner No.1

is not already a party, she should not have been impleaded and this fact has not been appreciated by the Court below, thus, there is illegality and perversity in the order under challenge and thus, urges this court for setting aside the same.

I have heard learned counsel for the petitioners and appraised the paper book and of the view that no doubt, signatory to the agreement of sell is defendants No.1 and 2 but they are not owner of the property. The property agreed to be sold is in the name of Rameshwar Dass Goel since deceased and defendant No.3/petitioner No.1 herein is one of the daughters, i.e., sister of defendants No.1 and 2, therefore, she is legal representative.

In my view, she may not be a necessary but definitely would be a proper party for adjudication of the lis, therefore, the ratio decidendi culled out by the Hon'ble Supreme Court in Anil Kumar Singh's case (supra) would not apply as it did not envisage the aforementioned fact, but in fact, based upon its facts and circumstances.

With the aforementioned observations, I do not intend to differ with the findings rendered in the impugned order, much less, the same cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

October 07, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No