

CR-6964-2015 (O&M)

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

**CR-6964-2015 (O&M)
Date of decision : 23.05.2016**

Subhash Kalia

..... Petitioner

versus

Abnash Chander Mahajan and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Parminder Singh, Advocate
for the petitioner.

Mr. A.K.Chopra, Senior Advocate with
Mr. G.S.Bhandal, Advocate
for the respondents.

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?

AJAY TEWARI, J. (ORAL)

This petition has been filed against the order declining an application under Order 1 Rule 10 CPC.

Respondents No.1, 2 and 3 had filed a petition against respondents No.4 to 6 for eviction of the first floor of SCO No.360, Sector 32-D, Chandigarh. The case of the petitioner was that respondent No.1 had entered into an agreement to sell the entire show room to him and after the eviction petition was allowed the respondents No.4 to 6 filed an appeal before the Appellate Authority. At that stage the petitioner moved an application under Order 1 Rule 10 CPC claiming to be impleaded as a party.

It is further the case of the petitioner that infact he has assigned whatever rights he had in favour of respondents No.5 and 6. It is against this backdrop of facts that his prayer for being impleaded as a party to this has to be decided.

Learned counsel for the petitioner has argued that the Appellate Authority declined his prayer only on the ground that no sale deed was there in his favour and this ground pales into insignificance once there is a decree of specific performance in his favour. Learned counsel has further argued that this matter has been pending in the Hon'ble Supreme Court at the instance both of the petitioner as well as of the respondents No.1 to 3.

Learned senior counsel for respondents No.1 to 3 has however argued that once as per the case of the petitioner he has assigned his entire right, title and interest in the property in dispute in favour of respondents No.5 and 6 he is neither a necessary nor a proper party since whatever may happen ultimately he in any case has lost all right, title and interest in the property and even if his appeal is allowed in the Hon'ble Supreme Court (although there is no likelihood thereof), yet the benefit of that will have to go to the respondents No.5 and 6. Moreover he has argued that in this dispute which is essentially between the admitted landlord and admitted tenant the third party can not intervene in the matter. Even if the appeal of the petitioner is allowed and that of the answering respondents is declined any benefit thereof can only go to respondents No.5 and 6. As per him in law it would be the appeal of the respondents which can be allowed.

In a series of judgments passed in **Satnam Anand and another Vs. Gurbachan Singh**, passed in **Ex.F.A 7/2011** decided on 17.02.2011 and **Nitin Sharma Vs. Smt. Raj Rani** passed in **RC.REV.No.221/2013** decided on 19.12.2014, it has been held that the Rent Controller is only to see prima-facie title.

In my opinion, the main determinant in this case is the fact that as per the petitioner himself whatever right, title or interest he had in the property (subject to the decision of the Supreme Court of India) has been passed on to the respondents No.5 and 6.

In these circumstances, I find no merit in the revision petition and consequently dismiss the same.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

23.05.2016
Pooja sharma-I

(AJAY TEWARI)
JUDGE