

Civil Revision No.7090 of 2016

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.7090 of 2016

Date of Decision: 22.10.2016

Mohkam Singh

---Petitioner

versus

Har Kishan and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Arun Singal, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition has been directed against order dated 14.9.2016 passed by the Additional Civil Judge (Senior Division), Panipat whereby application filed by the petitioner under Order 1 Rule 10 of the Code of Civil Procedure (in short "CPC") for being impleaded as a party, has been dismissed.

Counsel for the petitioner would contend that Har Kishan, respondent No. 1 has filed a suit for possession by way of specific performance of the agreement to sell dated 9.3.2012 in respect of agricultural land measuring 5 kanals 9 marlas i.e. half share out of 10 kanals 18 marlas, detailed in head note of the plaint in which Meham Singh and others have been impleaded as defendants. It is further argued that with regard to the same land, an agreement to sell dated 17.1.2012 has been executed by the defendants of the suit filed by Har Kishan in favour of the petitioner and the petitioner has already filed a suit seeking specific performance of the agreement to sell dated 17.1.2012 titled “Mohkam Singh vs. Parkashi and others” pending in the Court of Civil Judge (Senior Division), Panipat. It is argued with vehemence that as there is an agreement in favour of the petitioner qua the same land, the petitioner is required to be impleaded as a party in order to protect his interest on the basis of agreement to sell dated 17.1.2012 executed by the defendants. The last submission made by counsel is that the trial court has committed a grave error rather illegality by negating plea of the petitioner to be impleaded as a party. In support of his contention, he has relied upon judgment of this Court ***Teja Singh vs. Pritam Singh and others 2016(3)RCR(Civil) 912.***

I have heard counsel for the petitioner, perused the paper book particularly the order impugned.

Before advertng to the submissions made by counsel for the petitioner, it is appropriate to deal with the judgment relied upon in **Teja Singh's case (supra)**. This Court allowed a transferee pendente lite to be impleaded as a party in a suit for possession by way of specific performance of an agreement by relying upon various judgments including judgment of Hon'ble the Supreme Court of India **Mumbai International Airport Private Limited vs. Regency Convention Centre & Hotels Private Limited and others 2010(4) RCR(Civil) 551**. As the petitioner is not a transferee pendente lite, he cannot equate his case with that of the person who was allowed to be impleaded as a party in **Teja Singh's case (supra)**. The petitioner, therefore, cannot derive any advantage to his contention from the referred authority.

The petitioner has claimed an agreement to sell in his favour purported to be executed by the defendants of the present suit. He has already availed appropriate remedy by filing a suit seeking specific performance of the agreement that would be decided by the Court in due course of time. By impleading the petitioner as a party, the scope of the suit

filed by Har Kishan cannot be allowed to be enlarged. As the petitioner is not a party to the agreement to sell dated 9.3.2012 propounded by Har Kishan, it is difficult to accept contention of the petitioner that he is either a necessary or proper party to be impleaded for complete and effective adjudication of the matter in controversy involved in the suit initiated at the behest of Har Kishan. In this context, reference can be made to judgments of Hon'ble the Supreme Court of India **Kasturi vs. Iyyamperumal and others 2005(2)RCR(Civil) 691** and **Bharat Karsondas Thakkar vs. Ms. Kiran Construction Co. and others 2008(3) RCR (Civil) 57.**

For the foregoing reasons, I do not find any error much less illegality in the impugned order as would call for intervention.

Dismissed in limine.

(Rekha Mittal)
Judge

22.10.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No