

Civil Revision No. 717 of 2016(O&M)
Date of Decision: 2.2.2016

Oriental Bank of Commerce Israna

---Petitioner

versus

Pardeep Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. R.P.Singh Ahluwalia, Advocate
for the petitioner

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition has been directed against order dated 4.12.2015 (Annexure P-3) passed by the Civil Judge (Junior Division), Panipat whereby the application filed by the petitioner for impleading the petitioner as a party, has been dismissed.

Bijender Singh-respondent No. 3 has filed a suit for possession by way of specific performance of the agreement to sell dated 2.12.2009 purported to be executed by Pardeep Kumar and Swaran Singh, respondents No. 1 and 2. The petitioner-bank filed an application under Order I Rule 10 of the Code of Civil Procedure for impleading it as a party primarily on the plea that Pardeep Kumar defendant availed loan from the

bank and created security by way of registered mortgage deed No.2649 dated 28.10.2009. He has not paid even a single penny to the applicant-bank and has committed fraud with the bank by entering into agreement to sell.

Counsel for the petitioner contends that in case the petitioner is not allowed to be a party in the suit, a serious prejudice would be caused to the rights of the bank to realize the amount outstanding against Pardeep Kumar who has availed Oriental Green Card Laon of Rs. 2,00,000/- on 26.10.2009.

Be that as it may, if the suit property has been mortgaged and a charge has been created in favour of the bank, the same would be available against the subsequent buyer. The petitioner bank can neither be permitted to enlarge scope of the suit for specific performance of the agreement nor the bank is otherwise a necessary party for complete and effective adjudication of the matter in controversy. In this view of the matter, I do not find any error much less illegality in the impugned order as would call for intervention.

Dismissed.

(Rekha Mittal)
Judge

2.2.2016
PARAMJIT