

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

1. CR No.7359 of 2014 (O&M)
Date of decision : 29.03.2016

Sardar Gurpreet Singh and others

...Petitioners

Versus

Maharani Deepinder Kaur and others

...Respondents
2. CR No.462 of 2015 (O&M)
Date of decision : 29.03.2016

Sardar Gurpreet Singh and others

...Petitioners

Versus

Bharat Inder Singh (deceased) through his LRs and ors.

...Respondents
3. CR No.466 of 2015 (O&M)
Date of decision : 29.03.2016

Sardar Gurpreet Singh and others

...Petitioners

Versus

Bharat Inder Singh (deceased) through his LRs and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see

- judgment ?
2. To be referred to reporters or not ?
 3. Whether the judgment should be reported in the Digest ?

Present: Mr. Mohit Chaudhary, Advocate for the petitioners.

Mr. Chetan Mittal, Sr. Advocate with
Mr. Mohinder Nain, Advocate and
Mr. Varun Issar, Advocate for respondent No.3(iii) and (iv)
(In CR No.7359 of 2014)
for respondents No.4(iii) and (v)
(In CR Nos.462 and 466 of 2015)

Mr. Keshav Kataria, Advocate for respondent No.5.
(In CR No.7359 of 2014)
for respondent No.6 (In CR Nos.462 and 466 of 2015)

Mr. M.S. Khaira, Sr. Advocate with
Mr. R.S. Khaira, Advocate and
Mr. B.S. Sewak, Advocate for respondent No.6
(In CR No.7359 of 2014)
for respondent No.7 (In CR Nos.462 and 466 of 2015)

Mr. Vivek Bhandari, Advocate for respondent No.1
(In CR Nos.462 and 466 of 2015)
for respondent No.8(i) (In CR No.7359 of 2014)

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of three revision petitions, whereby petitioner is aggrieved of the dismissal of the application seeking impleadment in pending appeals.

Mr. Mohit Chaudhary, learned counsel appearing on behalf of petitioner submits that plaintiff after filing of the civil suit titled as Raj Kumari Amrit Kaur Vs. Maharani Deepinder Kaur and others on 15.10.1992 had entered into assignment deed dated 14.02.1996 (Annexure P-3) with the petitioner and in lieu thereof draft of ₹65,00,000/- was given. As per the

terms and conditions of the assignment deed, factum of the pendency of the suit was referred to by stating that second party had sought to acquire right, title and interest and claims to be determined in the said suit and the entire litigation expenses were to be borne by the second party. The second party indemnified the first party against the litigation (civil and criminal) which arose out of in pending litigation. Another civil suit titled as Kanwar Manjit Inder Singh Vs. Maharani Deepinder Kaur and others was also filed in respect of estate of Bharat Inder Singh. Both the suits were decided on 25.07.2013. The first suit was partly decreed, whereas, second suit was dismissed. Against the aforementioned decision, three appeals are stated to be filed. During the pendency of the appeals, the plaintiff i.e. assignee i.e. first party conceded vis-a-vis grant of interim stay i.e. status quo order. In these circumstances, the apprehension arose in the mind of the petitioner that the first party was colluding with the other side and the necessity arose to move the application, which has erroneously been dismissed. No doubt, the separate suit seeking specific performance of the agreement to sell has been filed on 18.12.2013 which is stated to be pending adjudication in the Delhi High Court. The law with regard to the impleadment of the party having acquired the right, title on devolvement of interest is no longer res integra. In support of his contention, he has referred to latest landmark judgment of Hon'ble Supreme Court in *Thomson Press (India) Ltd. Vs. Nanak Builders & Investors P. Ltd. and ors.* 2013(5) SCC 397 and as well as various other judgments to contend that no doubt assignee would be bound by the judgment and decree in a pending suit but it is always

necessary and essential for the parties who have acquired the right by impleading as a party. He on instructions from his client further submits that petitioner only seeking right to intervene and to address the arguments before the lower Appellate Court without any right to file written statement. Impugned order declining the application is not only illegal and perverse but travesty of justice. One of the ground of the dismissal of the application was for want of the registration of the sale deed, though as per the provision of Sub Clause 5 of Sub-Section 2 of Section 17 of the Registration Act, 1908, such registration is exempted and thus urges this Court for setting aside of the order.

Mr. Chetan Mittal, learned Senior Counsel assisted by Mr. Mohinder Nain and Mr. Varun Issar, Mr. M.S. Khaira, Sr. Advocate with Mr. R.S. Khaira and Mr. B.S. Sewak, Mr. Keshav Kataria, Mr. Vivek Bhandari, learned counsels appearing on behalf of respondents submits that order under challenge is perfect, legal and justified. Independent right has already been availed by the petitioner and thus rightly so, the application under Order 1 Rule 10, has been dismissed. Even otherwise, in case at any stage of the matter and the proceedings where collusion is on behalf of the first party of the assignment deed, petitioner shall be at liberty to prove the same in pending suit and thus urges this court for dismissal of the revision petition.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit in the submission of Mr. Mohit Chaudhary, Advocate, for the reasons, that all the judgments referred

pertains to the case where application filed under Order 1 Rule 10, much less under Order 22 Rule 10 in pending suit, where party had not availed any alternative remedy. Shorn of the facts noticed above, it is conceded position on record that suit for specific performance vis-a-vis agreement to sell/assignment deed is stated to be pending. Petitioner shall be at liberty to prove their averments made in the suit in accordance with law. Even otherwise it is settled law that agreement to sell does not confer any right and title until and unless the same is established through direct and cogent evidence. There is no dispute to the ratio decidendi culled out in the judgment cited at Bar as noticed above, all the judgments referred above deals with the situation where application has been filed in pending suit. The parameters vis-a-vis impleadment under Order 1 Rule 10 and under Order 22 Rule 10 are totally different with each other. Person can seek impleadment on account of devolution of right and interest by invoking provision of Order 22 Rule 10 in case it had acquired the right by virtue of registered documents. Even otherwise in case present documents to be termed as agreement to sell, there is no bar for seeking specific performance in the absence of the registration. Be that as it may. The execution of the general power of attorney of even date i.e. on 14.02.1996 would not be sale deed. I would be refraining myself to debate such issue as the matter is stated to be pending adjudication as it may not take away valuable right of the petitioner.

Keeping in view aforementioned facts and circumstances, I do not intend to differ with the findings rendered by the trial Court in declining

the application.

Impugned order cannot be said to have been passed without jurisdiction. Any observation made herein above shall not construed as expression on merit of pending suit.

No ground for interference is made out.

Revision petitions stand dismissed.

29.03.2016

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(AMIT RAWAL)
JUDGE