

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

CR No.7633 of 2016(O&M)

Decided on. 15.11.2016.

Nawaljit Kaur

.....Petitioner

Versus

Baldev Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Chetan Bansal, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 08.08.2016 passed by the learned Additional District Judge, Amritsar, whereby the application filed by the petitioner-plaintiff under Order 6 Rule 17 read with section 151 of the Code of Civil Procedure, 1908 (for short CPC) for amendment of the plaint in view of the subsequent events and for impleading Smt. Prabhdeep Kaur, the subsequent vendee as defendant no.37 has been dismissed.

2. I have heard Mr. Chetan Bansal, Advocate, learned counsel for the petitioner and have carefully gone through the paper book.

3. Learned counsel for the petitioner contended that during the pendency of the appeal before the learned First Appellate Court, defendant-Baldev Singh has sold the land measuring 26 kanal 7 marlas

to Prabhdeep Kaur his daughter-in-law vide sale deed dated 03.04.2014. Said Baldev Singh was not competent to sell the land being the ancestral property. He contended that the learned trial Court has given the specific finding that the property in dispute was the ancestral property. He contended that the sole motive to execute the sale deed by defendant no.1 in favour of her daughter-in-law was to cause loss to the appellant with *mala fide* intention. The execution of the said sale deed is a subsequent event, so the petitioner should be allowed to amend the plaint to challenge the said sale deed and to implead Prabhdeep Kaur as defendant no. 37. He contended that the learned First Appellate Court has wrongly dismissed the application. He has relied upon cases **Rajeev Sharma Vs. B.K.Sharma and another 2012(6) R.C.R (Civil) 2988** and **Thmson Press (India) Ltd. Vs. Nanak Builders & Investors P. Ltd and others 2013(2) R.C.R (Civil)875**.

4. I have duly considered the aforesaid contentions.

5. The petitioners-plaintiffs have filed the suit for declaration to the effect that they are owners and in joint possession of the suit land. They also sought a decree for permanent injunction restraining defendants no.1 to 3 from alienating, selling and mortgaging the suit land in any manner. But, the suit filed by them was dismissed by the learned trial Court vide judgment and decree dated 12.02.2014. Aggrieved with the said judgment and decree, they have preferred the appeal, which is pending in the Court of learned Additional District Judge, Amritsar. During the pendency of said appeal, defendant-respondent no.1-Baldev Singh has sold the suit land measuring 26

kanal 7 marlas to his daughter-in-law Prabhdeep Kaur vide sale deed dated 03.04.2014. Thus, the transfer made by respondent no.1-Baldev Singh in favour of Prabhdeep Kaur has been effected during the pendency of the first appeal before the learned First Appellate Court. The learned First Appellate Court in order to safeguard the interest of petitioners-plaintiffs has categorically mentioned that any sale of the property will be subject to the decision of the appeal and the principle of *lis pendense* shall be applicable. In view of the aforesaid observations of the learned First Appellate Court, there is no necessity for amendment of the plaint and impleading Prabhdeep Kaur as party to the appeal. Cases relied upon by learned counsel for the petitioner-plaintiff are quite distinguishable on facts.

6. Consequently, the impugned order does not suffer from any illegality. Therefore, it does not call for any interference by this Court.

7. Thus, the present revision petition having no merits, is hereby dismissed.

November 15, 2016

S.khan

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No