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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 29.11.2016

1.

CR-8820-2015

Anil Chhabra

... Petitioner

Versus

Gurvinder Singh and others

... Respondents

2.

CR-8821-2015

Anil Chhabra

... Petitioner

Versus

Master Gurvinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Namit Gautam, Advocate
for the petitioner in both the petitions.

Mr. Vikas Sagar, Advocate
for respondent No.3 in both the petitions.

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two revision petitions, aforementioned, filed at the instance of the plaintiff, who is aggrieved of the impugned orders, whereby the applications of respondent No.3, namely, Vishal Sharma, for impleading him as defendant and for granting permission to cross-examine the plaintiff, have been allowed.

Mr. Namit Gautam, learned counsel appearing on behalf of the petitioner-plaintiff submits that the vendors-respondent Nos.1 & 2,

defendant Nos.1 & 2 in the trial Court, had entered into an agreement to sell dated 03.02.2005 in respect of the suit land. Since they did not come forward for performing their part of the agreement to sell, the suit, aforementioned, was filed. Respondent No.3 is none-else, but a holder of subsequent agreement to sell i.e. during the currency of his agreement to sell. No doubt, he has been able to obtain a judgment and decree in his favour, but that is also on the basis of the compromise, in fact, there is a collusion between the vendor and respondent No.3. It is, in this background of the matter, the vendor in his suit has been proceeded *ex parte*. In a suit for specific performance, a third party cannot be permitted to be impleaded as he is not the party to the contract, therefore, the impugned orders impleading respondent No.3 is not sustainable, much less, granting the permission for cross-examination are liable to be set aside.

Mr. Vikas Sagar, learned counsel appearing on behalf of respondent No.3 submits that in pursuance to the impugned order, amended title has been filed. The impugned order does not envisage of filing of the written statement and only granted permission to cross-examine the plaintiff and as well as the witnesses in the absence of the written statement.

He, on instructions from his client, submits that he would not lead any evidence in the absence of any written statement, thus, urges this Court for affirming the findings under challenge.

I have heard the learned counsel for the parties and appraised the paper book. At the first blush, the argument of Mr. Namit Gautam, looks to be attractive as no third party can be impleaded in the absence of party to the contract, but the facts and circumstances, noticed above, in my

view, respondent No.3 is a holder of the judgment and decree dated 05.06.2012 in respect of agreement to sell dated 15.07.2008. The trial Court seized of the suit would be totally oblivious of the aforementioned fact, had respondent No.3 being not allowed to be impleaded, in the manner and mode as indicated above and as well as the permission for cross-examination. The impugned orders, under challenge, in my view, are most innocuous and does not affect the valuable right already accrued in his favour particularly, when the vendors i.e. defendant Nos.1 and 2 have been proceeded *ex parte*. It will help the Court in adjudication of the *lis* in accordance with law as respondent No.3 and as well as the petitioner would be able to address on law and facts both.

For the foregoing reasons, I do not find any illegality and perversity in the impugned orders under challenge and the same are hereby upheld. Accordingly, the revision petitions stand disposed of.

29.11.2016
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No