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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 423/2013 & C.M.No. 18033/2013**

SH SUNIL KUMAR DHANKAR Appellant
Through: **Mr. B.S. Yadav, Advocate**

Versus

SH VED PARKASH & ORS. Respondents
Through: **Mr. Sharat Chandra, Advocate for**
respondent No.1
Mr. Vipin K. Singh, Advocates for
respondent No. 2 & 3
Mr. Dhanesh Relhan, Ms. Aasita
Manocha & Mr. Arush Bhandari,
Advocates for respondent-DDA

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **ORDER**
30.09.2016

By way of application under Order 1 Rule 10 CPC and Order 22 Rule 10 CPC had sought impleadment in a suit for partition filed by the first respondent herein, as appellant claims to have purchased the share of second respondent for consideration. Impugned order, while relying upon a decision of Supreme Court in *Surjit Singh & ors. Vs. Harbans Singh & ors.* AIR 1996 S.C. 135 has held that alienation of the share by second respondent to applicant-appellant was in contravention of the *status quo* order and in such a case, appellant-assignee cannot claim impleadment.

Learned counsel for appellant-applicant submits that appellant-applicant was not aware of the *status quo* order and was a *bona fide* purchaser and is in possession of the share of second respondent in the suit property and so, his impleadment was justified, at the stage of plaintiff's evidence, as the appellant came to know about the suit for partition when he had appeared in another suit No. 75/2010, titled as *Ved Prakash Vs. Maha Singh & ors.* Reliance is placed upon a Supreme Court decision in *Thomson Press (India) Ltd. Vs. Nanak Builders and Investors P. Ltd.* AIR 2013 SC 2389 to submit that decision in *Surjeet Singh (Supra)* has been considered in the later decision by the Supreme Court and it has been held that even if the applicant is not a *bona fide* purchaser and not protected under the Specific Performance Act, still such an applicant ought to be impleaded because of the purchase of the subject matter of the suit. Thus, it is submitted that the impugned order deserves to be set aside and appellant's application ought to be allowed.

To the contrary is the submission of learned counsel for the only contesting respondent No.1, who submits that the issue which is subject matter of this appeal is squarely covered by Supreme Court decision in *Surjeet Singh (Supra)* wherein alienation in contravention of the *status quo* order was held to be a ground to deny the impleadment. It is submitted that impugned order is perfectly justified and there is no merit in this appeal.

Upon hearing and on perusal of impugned order, material on record and the decisions cited, I find that applicant-appellant is claiming impleadment on the strength of a registered Power of Attorney in his favour for consideration and a possession letter and in such a situation,

denial of his impleadment was not justified for the reason that appellant is not basing his claim on assignment. *Surjeet Singh (Supra)* was a case where impleadment was sought on the basis of assignment. In any case, Supreme Court in a later decision in *Thomson Press (supra)* has reiterated that if the applicant has purchased the subject matter of the suit, then such an applicant is entitled to be added as a party even if it is not shown at that stage that he is a *bona fide* purchaser.

Applying the dictum of the Apex Court in *Thomson Press (supra)* to the instant case, I find that the impugned order cannot be sustained and is accordingly set aside. Appellant's application under Order 1 Rule 10 CPC and Order 22 Rule 10 CPC are hereby allowed and he is permitted to be impleaded as a party in the suit for partition, which is pending at the stage of plaintiff's evidence.

With aforesaid directions, this appeal and application are disposed of.

(SUNIL GAUR)
JUDGE

SEPTEMBER 30, 2016

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