

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

CR No.1278 of 2017 (O&M).

Date of Decision: 23.03.2017.

Mukesh

....Petitioner.

VERSUS

Hari Kishan and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. D.S. Matya, Advocate for the petitioner.

SNEH PRASHAR, J.

CM-3809-CII-2017

Allowed, as prayed.

CR-1278-2017 (O&M)

The petitioner is aggrieved of the order dated 12.10.2016 passed by learned Civil Judge (Junior Division), Sohna, vide which although his application under Order I Rule 10 of the Code of Civil Procedure (for short, 'the Code') for being impleaded as plaintiff on having purchased the suit property from the original owner, was allowed but he was given no opportunity to amend the pleadings.

The submissions made by Mr. D.S. Matya, learned counsel for the petitioner have been considered.

On perusal of the impugned order, it emerges that one Shri Aiman (respondent No.18) filed a suit on 20.11.1998 for declaration with consequential relief of permanent injunction against respondent Hari Kishan and others (respondents No.1 to 12) and also impleaded Sant Ram and

others (respondents No.13 to 17) as proforma respondents. The suit was decreed ex parte vide judgment and decree dated 21.05.2007. Subsequently, the said ex parte judgment and decree was set aside vide order dated 26.05.2012. Thereafter, during pendency of the suit, Aiman (plaintiff) sold his entire share in the suit land to the petitioner by executing a registered sale deed. Having purchased the suit property in the year 2006, the petitioner filed an application invoking the provisions of Order 1 Rule 10 of the Code for being impleaded as plaintiff. The application was allowed by learned trial Court by recording the reasons as under:-

*“Against this backdrop, when post selling of his entire share in the suit land, the plaintiff Aiman is no more left with any right title interest in the questioned estate (being the same having been devolved or assigned upon the applicant making her the representative in interest of the plaintiff), to the legalistic estimation of this court the granting of the right to the applicant to continue with the possession of the suit is *sine qua non* for the adjudication of the suit to its legalistic climax as well as to guard the interest of the applicant in the suit estate as envisaged u/o 22 Rule 10 of CPC, 1908. My this legal standpoint gets the stamp of approval by the Hon'ble Punjab & Haryana High Court in the case captioned **Jagdish Chander and anr. Vs. Om Piari & Ors 2008(2) LJR.** But with a view for the avoidance of doubt, it is hereby made clear that the applicant will step in the shoes of her vendor Aiman from the stage on which the suit was pending adjudication on the day of the filing of the present application i.e. he will be equipped*

with only those rights which the plaintiff Aiman himself was equipped for suing the non applicants/defendants. Accordingly, the present application is hereby allowed to the afore-said extent only.”

Learned counsel for the petitioner failed to demonstrate any illegality or perversity in the order passed by learned trial Court. Plaintiff Aiman had sold his entire share in the suit property to the petitioner and was left with no right, title or interest in the same. When the title/interest in the suit property stood devolved/ assigned to the petitioner during pendency of the suit, as postulated under Order XXII Rule 10 of the Code the petitioner by leave of the Court had the right to continue with the suit in the same manner as the original plaintiff could have. In other words, having acquired the rights of the original plaintiff in the suit property by way of purchase, the petitioner stepped into the shoes of the original plaintiff. For that reason, the petitioner-vendee had been rightly impleaded as plaintiff on an application filed by him, but by no stretch of imagination on being allowed to continue with the suit as plaintiff, he would acquire any right to amend the pleadings. The petitioner would pursue only those legal rights which plaintiff Aiman had claimed in the suit in order to make the suit reach a legalistic climax.

As such, finding no illegality or perversity in the impugned order, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

23.03.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**