

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

229

CR No.2654 of 2015

Decided on : 04.07.2017

Karamjit Singh

... Petitioner

Versus

Darshan Singh and another

.. Respondents

CORAM : HON'BLE MR.JUSTICE RAMENDRA JAIN

Present : Mr.Raman Mohinder Sharma, Advocate
for the petitioner.

Mr.R.K.Dhawan, Advocate for respondent No.1.

Ramendra Jain, J. (Oral)

Challenge in the instant Civil Revision under Article 227 of the Constitution of India has been laid to the composite order dated 27.01.2015 (Annexure P-6) dismissing the application of the petitioner under order 1 rule 10 of CPC for impleading Surinder Kaur subsequent purchaser as defendant and another application under Order 6 Rule 17 of CPC for amendment of the plaint.

In nutshell, the petitioner filed a suit for specific performance against the respondents on the basis of agreement to sell dated 22.01.2008 qua suit land measuring 08 kanals. Respondent No.2 in her written statement pointed out that she had further sold the suit land in favour of one Smt.Surinder Kaur wife of Mehal Singh @ Gehal Singh. On noticing this fact, the petitioner moved an application under Section 1 Rule 10 of CPC to implead Surinder Kaur, subsequent purchaser as defendant No.3 and also another application under Order 6 Rule 17 of

CPC for amendment of the plaint. Both the said applications after contest were dismissed by the learned trial court vide impugned order.

Learned counsel for the petitioner contended that dismissal of the aforesaid applications by the trial court would invite multifarious litigation. Even otherwise, the suit cannot be adjudicated upon effectively in the absence of the subsequent purchaser.

On the other hand, learned counsel for the respondents pleading the validity of the impugned order urged that the applications were filed by the petitioner at a very belated stage, thus the same have rightly been dismissed as time barred.

I have given my thoughtful consideration to the submissions made by both the sides.

Undisputedly, respondent No.2 filed his written statement on 07.09.2013 bringing a new fact therein that she has already sold the suit land to Surinder Kaur without mentioning any date, parentage, name of husband and address of subsequent purchaser. Since, a new fact had come on record, therefore, in the considered opinion of this court, it was very much necessary for the petitioner to implead the subsequent purchaser as a necessary party to avoid multiplicity of litigation.

Moreso, both the applications were filed by the plaintiff within limitation on 25.08.2014 i.e. within one year on coming to know the name of subsequent purchaser through written statement of respondent No.2 filed on 07.09.2013. Learned trial court has failed to appreciate that impleadment of subsequent purchaser, was very much

necessary so as to curtail litigation in between the affected parties.

Learned counsel for the respondents has miserably failed to show that what prejudice would be caused to them in case both the applications of the petitioner are allowed, which would definitely help the trial court in effective adjudicate of the real controversy.

In view of the discussion above, the impugned order dated 27.01.2015 (Annexure P-6) passed by the Civil Judge, (Jr.Divn.), Zira is hereby set aside. As a natural consequence, both the applications of the petitioner under order 1 rule 10 CPC and order 6 rule 17 CPC are allowed.

Parties are directed to appear before the trial court on 01.08.2017. The trial court would permit the plaintiff-petitioner to implead the subsequent purchaser as necessary party and to amend his plaint before further proceedings with the case.

[Ramendra Jain]
Judge

04.07.2017
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No