

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**  
**Sr. No.: 125**

**Civil Revision No.2696 of 2017 (O & M)**  
**Date of Decision: April 19, 2017**

Manjit Kaur

..... PETITIONER

*VERSUS*

Manjit Singh (deceased) through LR's & another

..... RESPONDENTS

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**CORAM:**      HON'BLE MR. JUSTICE JASPAL SINGH

. . .

**PRESENT:** - Mr. Vinod K. Kaushal, Advocate, for the petitioner.

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**Jaspal Singh, J**

1. By virtue of instant petition, preferred under Article 227 of Constitution of India, the petitioner has sought setting aside of order dated March 02, 2017 (Annexure P-1) passed by the Civil Judge (Junior Division), Ajnala, whereby an application moved by the petitioner under Order I Rule 10 CPC for her impleadment in the execution petition has been dismissed.
2. It has been contended by learned counsel for the petitioner, while challenging the impugned order that the applicant is vendee/purchaser of Lakhwinder Singh, a co-sharer, on the basis of two different sale deeds dated May 03, 2010 and March 14, 2014 in respect of land measuring 4 kanals out of land measuring 8 kanals bearing Khata Khatauni No.47/50/138 as per jamabandi for the year 2011-12 situated at village Nassar, Tehsil Ajnala, District Amritsar. However, the executing court has executed the

sale deed(s) in respect of land measuring 8 kanals on behalf of Jaswinder Singh who is only owner to the extent of  $\frac{1}{2}$  share of Khasra No.17//5 (8-0). Thus, the petitioner is a necessary party as her interest is involved. Since the petitioner is a proper and necessary party, the matter in controversy cannot be settled in her absence and she is likely to be prejudiced and would suffer irreparable loss in case any order detrimental to her interest is passed at her back. Accordingly, the impugned order being not sustainable in the eyes of law is liable to be set aside by way of acceptance of the instant petition.

3. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but finds the same to be without any legal or factual substance.

4. The petitioner alleges to have purchased the land measuring 4 kanals 0 marla, out of land measuring 8 kanals comprised in Khata No.47/50/138 as per Fard Haqiyat for jamabandi for the year 2011-12 from Lakhwinder Singh – JD, whereas Jaswinder Singh is/was only owner to the extent of  $\frac{1}{2}$  share of Khasra No.17//5 (8-0). Moreover, the aforesaid sale deeds were executed after passing of judgment & decree dated November 13, 2007 and are hit by the doctrine of lis pendence. Moreover, during the course of arguments, learned counsel for the petitioner could not point out any provision of law under which an application under Order I Rule 10 CPC could be filed and is maintainable during the execution proceedings for becoming a party to it. At the most, the person aggrieved of judgment & decree, who is not a party to the decree, can file 3<sup>rd</sup> party objections if he/she has any claim. In the case in hand, 3<sup>rd</sup> party objections have already been filed before the executing court by the petitioner. Thus, after appreciating the facts & circumstances of the case as well as legal proposition, this Court is

I Rule 10 CPC for impleading her as party, has rightly been dismissed and as such, the impugned order does not call for any interference by this Court and the instant petition stands dismissed.

5. However, while parting with this judgment, it is observed that since the petitioner has already filed 3<sup>rd</sup> party objections before the executing court, the same shall be decided by it on merits in accordance with law without being influenced by any observation made hereinabove.

6. No order as to costs.

**April 19, 2017**  
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**(Jaspal Singh)**  
**Judge**

Whether Speaking/ Reasoned:  
Whether Reportable:

Yes/ No  
Yes/ No