

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-3670-2016 and
CR-3688-2016

Date of Decision:12.05.2017

Satish Chand Amar

.....Petitioner

Versus

Prem Chand Amar and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.Gurdial Singh Jaswal, Advocate,
for the petitioner.

None for the respondents.

RAMESHWAR SINGH MALIK, J.(Oral)

These two identical revision petitions bearing CR No.3670 of 2016 and CR No.3688 of 2016 (**Satish Chand Amar Versus Prem Chand Amar and others**), are being decided together, vide this common order, with the consent of learned counsel for the petitioner as both these cases are arising out of the same set of facts. However, for the facility of reference, facts are being culled out from CR-3670 of 2016 (**Satish Chand Amar Versus Prem Chand Amar and others**).

As per office report dated 19.09.2016, respondent No.1 who is the only contesting respondent, as claimed by learned counsel for the petitioner, has been duly served. However, neither anybody has come present on behalf of contesting respondent No.1, nor any request for pass over has been made.

Heard learned counsel for the petitioner.

Facts are hardly in dispute. During the course of suit for declaration filed by respondent Nos.1 and 2, a gift-deed came to be executed

in favour of the petitioner by respondent No.3, who is defendant No.1 in the suit. On the basis of said registered gift-deed, petitioner moved an application under Order 1 Rule 10 of the Code of Civil Procedure (for short “the CPC”) for getting himself impleaded as a party/defendant. It was this application of the petitioner which came to be dismissed by the learned trial Court.

No doubt, since the gift-deed came to be executed during the pendency of the suit, principle of *lis pendens* would apply. However, a bare perusal of the impugned order passed by the learned trial Court would show that true facts of the case could not be properly appreciated by the learned trial Court, while passing the impugned order. Had the application moved by the petitioner been allowed by the learned trial Court, no prejudice was likely to be caused to the plaintiff and on the other hand, multiplicity of litigation between the parties would have been avoided. Since the learned trial Court failed to appreciate this material aspect of the matter, while passing the impugned order, the same cannot be sustained.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every court of law must make an endeavour to strike a balance between the parties to the litigation by granting them sufficient opportunity to put-up their best case before the Court. Neither anybody should be condemned unheard nor should be forced to go home with the grievance that reasonable opportunity was not granted by the learned court. While following the abovesaid principle of law, the learned Court shall achieve twin objects; namely, (i) it would avoid multiplicity of litigation between the parties and (ii) the learned Court will be in a much better position to do complete and substantial justice between

the parties by rendering an effective judgment. However, in the case in hand, learned trial Court failed to appreciate the above-said principle of law, while passing the impugned order and the same cannot be sustained, for this reason also.

The above-said view taken by this Court also finds support from the following judgments in cases Amit Kumar Shaw and another Versus Farida Khatoon and another, 2005(2) R.C.R.(Civil) 651, Thomson Press(India) Limited Versus Nanak Builders & Investors P.Limited and others, 2013(2)R.C.R.(Civil) 875 and Rohtash Singh Versus Kalyan Singh and others, 2012(3) Law Herald 2809.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered opinion that since the impugned order has been found suffering from patent illegality, the same cannot be sustained. Accordingly, impugned order dated 15.03.2016 is hereby set aside. Application moved by the petitioner under Order 1 Rule 10 CPC would stand allowed and he is directed to be impleaded as a party/defendant. Learned trial Court is directed to proceed further with the matter and decide the same, in accordance with law.

Resultantly, with the above-said observations made and directions issued, instant revision petitions stand allowed, however, with no order as to costs.

May 12, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No