

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

CR No.4977 of 2015

Date of decision: 14.07.2017

M/s Guru Nanak Promoters Pvt. Ltd.

...Petitioner

Versus

Love Dev and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjay Verma, Advocate,
for the petitioner.

Ritu Bahri, J.

Petitioner is seeking setting aside the order dated 26.05.2015 (Annexure P-7) passed by the Civil Judge (Senior Division), Gurgaon, whereby application filed by respondent No.1-plaintiff under Order 1 Rule 10 CPC has been allowed and petitioner-M/s Guru Nanak Promoters Pvt. Ltd. has been impleaded as defendant No.2 in the suit.

Love Dev-plaintiff (respondent No.1) filed a suit for possession by way of specific performance of agreement to sell qua the suit property. During the pendency of said suit, another agreement to sell dated 30.03.2012 has been executed by the defendant-respondent No.2 in favour of M/s Guru Nanak Promoters Pvt. Ltd (petitioner herein). After coming to know about this fact, plaintiff-respondent No.1 filed an application under Order 1 Rule 10 read with Section 151 CPC to implead M/s Guru Nanak Promoters Pvt. Ltd. as defendant No.2, which has been allowed vide

impugned order dated 26.05.2015 (Annexure P-7).

Learned counsel for the petitioner has referred to the order dated 07.11.2012 (Annexure P-3) passed by the Additional District Judge, Gurgaon, whereby application under Order 39 Rule 1 and 2 CPC was dismissed. While dismissing the application, it was observed that if the vendor/respondent intended to alienate the suit property or create any encumbrance or charge thereon, then she would inform the alienee/vendee about the pendency of the lis and in this regard, a specific recital would be given in the transfer deed and the alienation would be hit by the rule of lis-pendens. Learned counsel contends that in view of the above said order, the application filed by plaintiff-respondent No.1 should not have been allowed.

This argument of learned counsel for the petitioner is liable to be rejected, as the order dated 07.11.2012 (Annexure P-3) does not bar the plaintiff from moving an application under Order 1 Rule 10 CPC. As per agreement to sell dated 30.03.2012, total sale consideration was agreed at ₹2,41,00,000/-, out of which, present petitioner has paid ₹90,00,000/- as first installment, ₹50,00,000/- as second installment on 30.04.2012, ₹45,00,000/- on 31.05.2012 as third installment and balance sale consideration of ₹56,00,000/- was to be paid at the time of execution and registration of the sale deed.

Keeping in view the fact that the present petitioner has entered into an agreement to sell with defendant No.2 during the pendency of the suit, therefore, the trial Court has rightly allowed the application filed by plaintiff-respondent No.1 under Order 1 Rule 10 CPC for impleading the present petitioner (subsequent prospective vendee) as necessary party to the suit.

Accordingly, having examined the impugned order, no illegality,

much less perversity, has been found therein warranting interference by this Court.

Dismissed.

However, the trial Court is directed to dispose of the suit expeditiously, preferably within one year.

14.07.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No