

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

120-2

CR No. 6318 of 2016 (O & M)

Date of decision :31.10.2017

Sunita

...Petitioner

Versus

Satyapal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.K. Yadav, Advocate
for the petitioner.

Mr. Navneet Singh, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (Oral)

The revision petition has been filed by newly added defendants i.e. defendant Nos.2 and 3 against order dated 30.08.2016. Although, it is normally true that subsequent purchaser if added as a party under Order 22 Rule 10 CPC, is not entitled to file a separate written statement but peculiar facts of this case compel this Court to permit defendant Nos.2 and 3 to file the written statement. Ramjivan, father of Nihal Singh and Satyapal was owner of the property. Pursuant to a family settlement property in dispute was acknowledged to be owned by Nihal Singh exclusively. This family settlement was later on also acknowledged in the Civil Court decree dated 27.09.1971.

Satyapal, the other son through Bharat Singh General Power Attorney of Nihal Singh filed a suit for declaration seeking setting aside of decree dated 27.09.1971. The suit was instituted against Nihal Singh. In an application for temporary injunction status quo was ordered in the beginning, however, it was later on vacated on 15.01.2013.

Nihal Singh transferred the property in favour of Sunita wife of

Anil and Sunita wife of Dharam Singh vide registered sale deed dated

04.02.2015.

Sunita wife of Anil and Sunita wife of Dharam Singh filed an application for being added as defendants on the ground that now the two brothers have colluded with each other. The application under Order 1 Rule 10 was allowed. The case was adjourned for filing the written statement by defendant Nos.2 and 3. However, thereafter the Court has passed the impugned order noticing that defendant Nos.2 and 3 are subsequent purchasers and, therefore, they are not entitled to filing of the written statement.

I have heard learned counsel for the parties at length and with their able assistance gone through the documents available in the paper-book. It would be significant to mention here that Nihal Singh has challenged the sale deed dated 04.02.2013 executed by him in favour of Sunita wife of Anil and Sunita wife of Dharam Singh by filing a separate suit. Thus, it is apparent that Nihal Singh is trying to get back the property. He is acting against the interest of vendees i.e. Sunita wife of Anil and Sunita wife of Dharam Singh.

Learned counsel for the petitioner has pointed out that the order of temporary injunction has been got restored by Satyapal and his son as in the meantime Nihal Singh has died. The suit is practically collusive because Satyapal has filed a suit through Bharat Singh son of Nihal Singh and legal heir of Nihal Singh would be Bharat Singh only.

Taking into consideration the aforesaid fact, it is utmost necessary that defendant Nos.2 and 3, who are purchasers of the property in dispute during the pendency of the suit should be given opportunity to defend the case.

In these circumstances, the order under challenge passed by the learned Civil Judge, Junior Division, Rewari is set aside and defendant Nos.2 and 3 shall be granted opportunity to defend the suit by filing the written statement.

With these observations, the revision petition is allowed.

31.10.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes
Whether Reportable : No