

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

CR No. 6131 of 2017

Date of decision: 12.09.2017

Jasbir Singh

...Petitioner

Versus

Smt. Bharto and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Narinder Singh Behgal, Advocate,
for the petitioner

Ritu Bahri, J.

Challenge in this petition is to the order dated 02.08.2017 (Annexure P-6) passed by the Civil Judge (Senior Division), Kurukshetra, whereby application filed by defendant-respondent No. 9 for amendment of the written statement has been allowed.

A perusal of the impugned order (Annexure P-6) shows that plaintiff-petitioner has filed a suit for specific performance of agreement to sell dated 22.09.2010 executed by Hari Kishan in his favour. However, he had executed the sale deed in favour of defendant No.9 on 13.09.2011. During the pendency of said suit, defendant Nos.1 to 3 and 8 filed application(s) under Order 7 Rule 11 CPC for dismissal of the suit and permission to withdraw their written statement. The said application(s) have been dismissed. Thereafter, the present application for amendment of the written statement has been filed by defendant No.9. In his written statement,

defendant No.9 has taken a plea that he was *bonafide* purchaser of the suit

property. However, no issue, in this respect, has been framed by the trial Court. Vide impugned order dated 02.08.2017, additional issue No.5 (A) has been framed as under:-

“5 (A). Whether the defendant No.9 is bonafide purchaser? OPD-9”

Onus to prove issue No.5 (A) is on defendant No.9 himself. A perusal of the application for amendment of written statement (Annexure P-4) shows that defendant No.9 now wants to plead that he was not aware about the alleged agreement to sell dated 22.09.2010 and had made enquiry from the revenue officials. He had purchased the property in dispute for a sum of ₹22,16,000/- from Hari Kishan, who was recorded as owner in possession thereof in the revenue record.

After going through the impugned order, this Court is of the view that since the main dispute is between the plaintiff and defendant No.9, application for amendment of written statement has rightly been allowed by the trial Court. Moreover, additional issue (Issue No.5 A) with regard to *bonafide* purchaser has already been framed and burden to prove the same is on defendant No.9. No illegality, much less perversity, has been found in the impugned order warranting interference by this Court.

No merits.

Dismissed.

12.09.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No