

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

CR No.6414 of 2017
Date of decision : 10.10.2017

Amit Vashishst

...Petitioner

Versus

Satish Kumar Kalra and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Supriya Garg, Advocate for the petitioner.

Mrs. Abha Rathore, Advocate for the respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

This revision petition arises out of the order passed by the trial Court dismissing the application filed under Order 6 Rule 17 CPC seeking amendment in the plaint.

This is one case which compels the Court to observe that the suit now filed is mala fide. One Rajiv Kumar had filed a suit for specific performance of the agreement to sell dated 02.08.2004. Owners of the property were Yash Dewan and Shanti Sawroop Dewan. They had given power of attorney to one Satish Kumar Kalra. He on the basis of the attorney had executed the agreement to sell in favour of Rajiv Kumar on 02.08.2004. The suit filed by Rajiv Kumar for specific performance of the agreement to sell was decreed on 23.04.2011. Appeal preferred by the owners through Satish Kumar Kalra was dismissed by the Court on

17.01.2014. Second appeal preferred against the judgments of the Courts below was also dismissed on 12.03.2014. Even the Special Leave Petition preferred against the judgments of the Courts below was dismissed on 05.12.2014.

The petitioner-plaintiff filed a suit for specific performance of the agreement to sell with respect to same property which was subject matter in the previous litigation on 24.04.2014, i.e. after the decree for specific performance had been confirmed in Regular Second Appeal. The plaintiff claims the agreement to sell dated 04.04.2005.

The Decree Holder i.e. Rajiv Kumar in the previous litigation was impleaded as party defendant on 23.04.2015. In the present case, the original owners namely Yash Dewan and Shanti Sawroop Dewan have clearly asserted that the subsequent agreement to sell in favour of the petitioner i.e. Amit Vashishst is forged and fabricated document.

Plaintiff-Amit Vashishst by filing the application for amendment of the plaint seeks to challenge the decree passed in the previous litigation. Learned trial Court has dismissed the application while giving following four reasons:-

1. The amendment sought would change the entire nature of the proceedings.
2. The trial has commenced.
3. There is inordinate delay.
4. This amendment is not necessary as the suit is only for specific performance of the agreement to sell.

I have heard learned counsel for the parties at length and with

their able assistance gone through the record of the case.

It is a case where it is proved that the amendment sought or rather the suit filed by the plaintiff-petitioner-Amit Vashishst is wholly mala fide. Once the decree for specific performance has been passed and the plaintiff is not claiming any prior agreement to sell in his favour, the suit is bound to fail.

On the other hand, Rajiv Kumar who has litigated and has been successful up to the Hon'ble Supreme Court is now sought to be once again involved in the litigation by amendment. Thus, suit filed by the plaintiff for specific performance of the agreement to sell is after a period of 9 years from the alleged date of agreement to sell. That fact itself proves that in fact it is Satish Kalra who is involving everybody into unnecessary litigation.

For the reasons recorded above, I do not find any good ground to interfere with the order passed by the trial Court.

Revision petition is dismissed.

10.10.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No