

In the High Court of Punjab and Haryana at Chandigarh

111

CR No.7207 of 2017

Date of decision: 23.10.2017

TAHIR HASSAN AND ANR.

.....petitioners

Versus

MAYUR KHAN AND ORS.

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Krishan Singh, Advocate,
for the petitioners

RAJ MOHAN SINGH, J.(oral)

Defendants No.3 and 4/ petitioners have filed this revision petition against the order dated 23.5.2017 passed by Civil Judge (Sr.Divn.) Yamuna Nagar at Jagadhari, vide which application under Order 1 Rule 10 CPC for impleading the petitioners as defendants No.3 and 4 was allowed along with prayer in terms of Order 6 Rule 17 CPC for amendment of the plaint, challenging the civil Court decree dated 23.11.2013 in a suit titled Akbari Begum etc. vs. Vahid Hasan and release deeds dated 31.7.2014 and 4.8.2014.

Plaintiffs are sons of defendant No.1. Defendant

Nos.1 and 3 are sons of defendant No.4. Defendant No.2 is wife

of defendant No.4. Defendant No.1, while appearing as DW-1, disclosed about civil court decree dated 23.11.2013 titled Akbari Begum etc. vs. Vahid Hasan. Some part of the suit property was transferred in the name of Akbari Begum (defendant No.2) i.e. grandmother of the plaintiffs and mother of defendants No.1 and 3 vide release deed dated 31.7.2014. Some property was transferred in the name of Ali Hasan (defendant No.4), vide release deed dated 4.8.2014.

The aforesaid facts came to the knowledge of the plaintiffs during evidence of the defendants. Tahir Hasan and Ali Hasan were sought to be impleaded as defendants No.3 and 4 besides challenging the factum of civil court decree dated 23.11.2013 and release deeds dated 31.7.2014 and 4.8.2014 by means of amendment.

The indulgence has been granted by the trial Court on the ground that the plaintiffs were not party to the aforesaid transactions. Plaintiff No.2 is still minor and it is the duty of the Court to protect the interest of minor. The indulgence granted by the trial Court cannot be faulted with by any of the arguments raised by learned counsel for the petitioners. The Court becomes functus officio only after pronouncement of the judgment. The challenge to the civil Court decree and release deeds would facilitate the Court to decide the entire controversy in an effective manner keeping in view the inter se

relationship between the parties. Hence, the impugned order does not suffer from any error of jurisdiction.

This revision petition is accordingly dismissed.

October 23, 2017
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking **Yes/No**

Whether reportable **Yes/No**