

CR No. 7599 of 2015 (O&M)

Amit Kumar
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**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 7599 of 2015 (O&M)
Date of decision: 11.5.2017**

Jyoti Rani

...Petitioner

Versus

Jateen and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Harkesh Manuja, Advocate
for the petitioner.

Mr. Ajay Kumar Kansal, Advocate
for respondent No.1.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition filed under Article 227 of the Constitution of India, is directed against the order dated 24.8.2015 (Annexure P-7) passed by the learned trial court, whereby application of the petitioner under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure ('CPC' for short), was dismissed.

Notice of motion was issued.

Heard learned counsel for the parties.

Facts are hardly in dispute. Original defendant in the suit namely Ravi son of Sh. Sumer Singh entered into an agreement to sell with the petitioner qua this very suit property against which respondents are seeking a decree for maintenance under Section 18 and 20 of the Hindu Adoptions and Maintenance Act, 1956 ('Act of 1956' for short). Interest of respondent No.1 and respondent No. 2 is common.

When confronted with the fact that if the impugned order is upheld, it will lead into multiplicity of litigation between the parties, learned counsel for respondent No.1 had no answer and rightly so, it being a matter of record. In such a situation, the learned trial court ought to have appreciated this material aspect of the matter, before passing the impugned order. However, since this crucial aspect of the matter could not be appreciated by the learned trial court at the time of passing the impugned order, it cannot not be sustained.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every court of law must make an endeavour to grant reasonable opportunity to both the parties to the litigation to put up their respective best cases before the court. Neither any party to the litigation should be condemned unheard, nor forced to go home with the grievance that it was not granted due opportunity to put up its best case. While proceeding on this principle of law, the learned courts would be achieving twin objects; i) they would be avoiding multiplicity of litigation and ii), the learned courts would be in a much better position to do complete and substantial justice between the parties. It is equally true that while doing complete and substantial justice, technicalities must not be allowed to stand in the way of imparting justice. Since the learned trial court has not followed the abovesaid principle of law, while passing the impugned order, the same cannot be upheld.

In fact, keeping in view the peculiar facts and circumstances of the case, noticed hereinabove, petitioner was very much a necessary party, claiming herself to be a bonafide purchaser for due consideration. Property is the same which has been purchased by the petitioner against which a decree for maintenance is being sought by respondent No.1. Under these circumstances, impleadment of the petitioner as party-defendant will also facilitate the learned

trial court to arrive at a judicious conclusion, with a view to render an effective judgment. In this view of the matter, it can be safely concluded that the learned trial court fell in serious error of law, while passing the impugned order and the same cannot be sustained, for this reason also.

Learned counsel for respondent No.1 could not raise any meaningful argument in support of the impugned order.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality and also running contrary to the law, it cannot be sustained.

Accordingly, impugned order dated 24.8.2015 (Annexure P-7) is hereby set aside. Application of the petitioner under Section 1 Rule 10 read with Section 151 CPC would stand allowed and she would be impleaded as party-defendant in the petition filed by respondent No.1 under Sections 18 and 20 of the Act of 1956. On completion of pleadings of the parties, the learned trial court shall proceed further to decide the suit, in accordance with law.

Resultantly, with the abovesaid observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

11.5.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No