

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CR-7792 of 2016 (O&M)

Date of decision: January 23, 2017

Naseeb Kaur & others

...Petitioners

Versus

Gurdeep Kaur & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vishal Mittal, Advocate for the petitioners.

Rajan Gupta, J.(oral)

Present revision emanates from an order dated 13.10.2016, passed by the trial court disposing of application moved by applicant/petitioners for being impleaded as party to the suit.

It has been urged before the court that trial court committed a grave error in dismissing the application. Presence of the petitioners before the court below was necessary to enable it to completely and effectually adjudicate upon the issues involved. Learned counsel has relied upon judgment in *Shivdev Kaur (D) By Lrs. & Ors. vs. R.S. Grewal, 2013 (4) SCC 636*.

I have heard learned counsel for the petitioners and given careful thought to the facts of the case.

It appears, plaintiffs filed a suit for specific performance on the basis of agreement to sell dated 27.5.2009 against the defendants. Suit was instituted on 13.5.2013. After suit had made considerable headway, instant application was moved by the petitioners seeking to be impleaded them

parties. They stated that Gurdeep Kaur had received the property only as life estate and had no right to alienate the same in any manner. The agreement to sell dated 27.5.2009 in favour of plaintiffs was, thus, null and void. In order to raise this plea before the court, they sought to be impleaded as parties to the suit. Plea has been rejected by the court below on the ground that date, on which the petitioners came to know about the pendency of the suit, was not forthcoming. Besides, plaintiffs were *dominus litis* and had, thus, right to choose the parties to the litigation. I find no infirmity with the order. Petitioners claim that they had a registered document (*Tamlik*) in their favour. It is not clear why they did not avail of the remedy available to them under the law. Judgment in *Shivdev Kaur's case* (supra) is not relevant as same does not relate to an application under Order 1 Rule 10 CPC for impleadment of parties. Present revision petition is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

January 23, 2017
'Rajpal'