

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

Civil Revision No.8045 of 2016

Date of decision: January 13, 2017

Kulbir Singh & another

...Petitioners

Versus

Dera Thakuran Chowk Moni & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. K.G. Chaudhary, Advocate for the petitioners.

Rajan Gupta, J.

Present revision petition is directed against the order dated 7.11.2016, passed by Additional District Judge, Chandigarh, whereby application under Order 1 Rule 10 CPC filed by the petitioners for impleading them as respondents, has been rejected.

Learned counsel for the petitioners has assailed the order. According to him, in the month of September 2012, respondents No.1 and 2 had agreed to sell the plot in dispute to the petitioners, who had paid Rs.25.00 lacs as an earnest money. The petitioners have direct interest in the property in dispute, therefore, they are necessary party to the appeal.

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

It appears, respondents No.1 & 2 filed a suit for specific performance against respondents No.3 to 6 with regard to SCF No.4, Sector 24-C, Chandigarh. Said suit was decreed by the trial court on

05.12.2014. Against the aforesaid judgment and decree, respondents No.5 and 6 preferred appeal. During pendency of appeal, petitioners filed instant application U/O 1 Rule 10 CPC for impleading them as respondents on the basis of an agreement to sell in their favour. The Additional District Judge dismissed the application by observing that appeal is against the judgment and decree in suit for specific performance, which is based on the agreement and applicant/petitioners are not party to the said agreement. I find no infirmity with the order passed. It reveals that petitioners had not filed any application before the trial court when suit was pending before it. Moreover, petitioners have already availed the remedy of filing a suit for specific performance, therefore, they are not necessary party to the instant case and application filed by them in the present case at appellate stage, has been rightly rejected. Thus, revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

January 13, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No