

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.2204 of 2018
Date of decision:04.04.2018

Jai Singh

... Petitioner

Vs.

Dara Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amitabh Tewari, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 13.11.2017 (Annexure P-1), whereby, the application moved by the respondent-plaintiff under Order 1 Rule 10 read with Order 6 Rule 17 CPC for amendment of the plaint, has been allowed.

Mr. Amitabh Tewari, learned counsel for the petitioner submitted that Power of Attorney executed by Gurbaksh Ram, Joginder Ram and Rajender Pal, sought to be impleaded as defendants No.2 to 4 is still valid and existing and therefore, there would not be any necessity for the plaintiff to implead the aforementioned persons. The suit could not have been dismissed or objection can be taken at any stage with regard to non-impleadment of proper or necessary party. For the purpose of adjudication of suit seeking specific performance of the agreement to sell, only parties to the contract are required to be looked into as the contract was between the

petitioner and respondent-plaintiff.

In support of his contention, relied upon the judgment rendered by the Supreme Court of India in **Patasibai and others Vs. Ratanlal 1990 (2) SCC 42**, wherein, in identical situation, alongwith prayer for amendment of the plaint impleadment was sought which did not find weightage in the mind of the Court resulting into rejection of the same. He buttressed his argument by referring to paragraph 9 of the aforementioned judgment and thus, urged this Court for setting aside the order under challenge.

I have heard the learned counsel for the petitioner, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Tewari, for, law on impleadment of actual owner and that too at the instance of the vendee has been pondered upon by the Supreme Court of India in **Robin Ramjibhai Patel Vs. Anandibai Rama @ Rajaram Pawar and Others 2017(1) RCR (Civil) 170**, wherein, it has been held that where vendee moves such application for bringing on record the persons who are necessary and proper party for adjudication of the suit required to be impleaded, for, plaintiff cannot be non-suited on such plea, that too, at the final stage of the suit.

In the instant case, defendants No.2 to 4 sought to be impleaded, are actual owners i.e., principal who gave authority to an agent-defendant no.1 and in my view, they are necessary and proper party for adjudication of the lis. This is what the import of the impugned order.

There is no dispute with regard to the ratio decidendi culled out by the Supreme Court of India in Patasibai's case (supra) but fact of the matter is that it was a case where earlier also the suit was filed and in those proceedings, the person was not a party and in that situation, the Court declined to implead such person, therefore, the ratio decidendi culled out in the aforesaid case does not apply to the facts and circumstances of the present case.

In view of the aforementioned observations, no ground is made out for interference in the impugned order.

Revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

April 04, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No