

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.2291 of 2017 (O&M)
Date of decision: 04.04.2018

Tarsem Singh

... Petitioner

versus

Balwant Singh & ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sunil Chadha, Sr. Advocate with
Mr. Sharad Mehta, Advocate
for the petitioner.

Mr. Vikas Behl, Sr. Advocate with
Ms. Japneet Kaur, Advocate
for respondents No.1 to 3.

Mr. A.S.Pahwa, Advocate
for respondent No.5.

Amit Rawal, J(Oral)

The present revision petition is directed against the impugned order dated 20.02.2017 whereby an application (Annexure P-1) moved by the petitioner-plaintiff for impleading Union of India, New Delhi, National Highway Authority of India, Dwarka, National Highway Authority of India, Ludhiana and Land Acquisition Collector-cum-SDM(West), Ludhiana, competent authorities under the National Highway Authority Act as respondents, during the pendency of the suit for specific performance of agreement to sell dated 12.04.2016 in respect of land measuring 11 kanals out of 46 kanals 0 marla described in the suit has been dismissed for, a part of the suit land had been acquired by the National Highway Authority and therefore, they would be essential and necessary party for the purpose of

adjudication of the suit and as well as for bringing on record the proposed defendants being necessary and proper party as there is possibility that the suit may not be dismissed for want of proper and necessary parties.

Mr. Chadha submits that the application with aforesaid prayer was filed when the suit was slated for plaintiff's evidence and no harm and prejudice would be caused if the contesting defendants would be able to file the amended written statement as well as cross-examine the witnesses of the authority. In support of contention, learned Sr. counsel for the petitioner has relied upon the judgment rendered by Hon'ble Supreme Court in ***Robin Ramjibhai Patel vs. Anandibai Rama @ Rajaram Pawar & ors., 2017 (1) RCR (Civil) 170*** to contend that in a suit for specific performance by a vendee, vendee can be permitted to implead certain persons on the ground that they may be adversely affected with the outcome of the suit.

Per contra Mr. Vikas Behl, learned Senior counsel submitted that the judgment cited by Mr. Chadha would not be applicable, there is no adverse order against the National Highway Authority, in view of the settled law laid down by Hon'ble Supreme Court, for, an agreement to sell does not confer any title, any compensation to be awarded by the Land Acquisition Collector would definitely fall into the account of the land-owner and by virtue of the interim order even the disbursement of compensation has been stayed. It was next contented that the application was bereft of any reasoning. Union of India is not a party to the contract, for, in a suit for specific performance the parties to the contract are only necessary and proper for adjudication of the lis and urges, this Court for dismissal of the petition.

I have heard learned counsel for the parties and appraised the

paper book and impugned order passed by the Court below and of the view that there is force and merit in the submissions of Mr. Chadha, learned senior counsel for the petitioner, for, it is too premature to express anything on the merit of the matter as it may have a affect on the respective stands of the parties to the lis, for, the petitioner in the present case has sought the specific performance of the agreement to sell on the basis of the alleged violations of the terms and conditions but the fact of the matter is that during the pendency of the suit certain piece of land which is a subject matter of the suit has been acquired. It is yet to be ascertained whether plaintiff on the basis of proper evidence would be able to prove agreement to sell and seek discretionary relief or not. But the suit cannot be thrown out for non-impleadment of necessary parties. It is on this background the proposed application aforementioned was filed. All these aforementioned legal aspects and factual aspects have not been taken into consideration by the Court below. There is illegality and fallacy in the impugned order. For the aforementioned reasons, the impugned order is set aside. The application (Annexure P-1) is allowed by ordering the impleadment of the following persons :

(vi)National Highway Authorities of India, G 5 & 6, Sector 10,
Dwarka, New Delhi 110075

(vii)National Highway Authority of India, through its Project
Director, Panipat-Jalandhar Six Lane Project, PIU Ambala
17-L, Model Town, Ludhiana.

(viii)Land Acquisition Collector-cum-SDM(West), Ludhiana
Union of India is not a necessary party.

Mr. Behl, learned senior counsel for the respondents states that

the suit is slated for evidence of plaintiff, therefore, a direction be issued to the trial Court for expeditious disposal of the case.

This fact has been opposed by Mr. Chadha referring the fact that another civil revision i.e. CR No.1660 of 2018 filed by the petitioner against the order rejecting the amendment is pending consideration for 21.05.2018 wherein the trial Court has been directed to adjourn the matter for 10 days beyond the date fixed by this Court.

I am of the view that said direction cannot be issued until and unless revision is adjudicated. However, liberty is granted to the respondents to address the submissions before the trial Court.

04.04.2018

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(AMIT RAWAL)**JUDGE**

Whether speaking/non-speaking? Yes/No

Whether reportable? Yes/No