

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.2359 of 2018

Date of Decision.16.04.2018

Manoj Kumar

.....Petitioner

Vs

Ishwar and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rakesh Dhiman, Advocate
for the petitioner.

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AMIT RAWAL J. (ORAL)

The petitioner is aggrieved of the impugned order whereby the application under Order 1 Rule 10 CPC in the suit for permanent injunction has been dismissed.

Learned counsel for the petitioner submits that the petitioner has entered into agreement to sell dated 24.09.2014 with real uncle of the parties namely Om Parkash, who is not party in the civil suit, therefore, sought impleadment for the reason that both the parties in the civil suit without impleading Om Parkash, the owner of the property, wanted to obtain injunction and this aspect has not been taken care of by the trial Court and the application has been dismissed by applying the principle of *dominus litus*. He submits that no harm and prejudice would be caused in case the petitioner is impleaded in the aforementioned suit as he is an agreement holder.

I have heard learned counsel for the petitioner and appraised the paper book. The agreement to sell is dated 24.09.2014 whereas the suit (Annexure P-1) was filed in 2016. Since the time was not the essence of the agreement, filing of the suit would have given a cause to the petitioner to

seek specific performance of the agreement to sell against the real owner but not in the manner and mode as sought for. A third party cannot be impleaded as respondent except where during the subsistence of the agreement, the vendor has parted with the title or interest, in view of the Order 22 Rule 10 CPC and the law laid down by Hon'ble Supreme Court in *Thomson Press (India) Ltd. Vs. Nanak Builders & Investors (P) Ltd.* *(2013) 5 SCC 397* but the present case in hand is totally different.

In my view, the opinion expressed by the trial Court is perfectly legal and justified as the remedy of the petitioner lies elsewhere. No ground for interference is made out. The revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

April 16, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No