

CR No.3131 of 2015 (O & M)and
CR No.3789 of 2015 (O & M)

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

263+236

CR No.3131 of 2015 (O & M)
Date of Decision:26.02.2018

Kuldip Singh

...Petitioner

Versus

Jagjit Singh and others

...Respondents

CR No.3789 of 2015 (O & M)

Amarjit Singh and others

...Petitioners

Versus

Jagjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vishal Gupta, Advocate
for the petitioner in CR No.3131 of 2015.

Mr. Amit Gupta, Advocate
for the petitioner in CR No.3789 of 2015 and
for the respondents No.2 to 4 in CR No.3131 of 2015.

Mr. Rajesh Punj, Advocate for respondent No.1 in
both the revision petitions.

ANIL KSHETARPAL, J.(Oral)

By this common order, two revision petitions CR-3131-2015 and CR-3789-2015 shall stand disposed of. Counsel for the parties are agreed that the issues involved in the cases are common although, these revision petitions are arising out of different suits. For the purpose of disposal of both the revision petitions, the facts are taken from CR No.3131 of 2015.

Impugned order passed by the learned trial Court results in declining the prayer of the petitioner-plaintiff to implead subsequent vendee as party-defendant.

It is undisputed that the suit was instituted on 14.06.2005 for grant of possession by way of specific performance of the agreement to sell dated 11.09.2002 executed by defendant Nos.2 to 4 with the consent of defendant No.1.

It is not disputed that during the pendency of the suit, the property, which is the subject matter of the suit, was transferred in favour of Harish Chander on 09.09.2013. Plaintiff filed an application for adding Harish Chander as party-defendant in the suit. The aforesaid application has been dismissed by the Court on the ground that the rule of lis pendens applies and subsequent purchaser is not necessary.

I have heard learned counsel for the parties at length and with their able assistance gone through the paper-book.

Learned counsel for the petitioner has submitted that for grant of effective relief, it is necessary that the subsequent vendee is also heard by the Court while deciding the suit. He submits that no doubt, rule of lis pendens is applicable, however, once a decree is passed without hearing the subsequent vendee, he is likely to face difficulty in execution. He has relied upon the judgment passed by the Hon'ble Supreme Court (2013) 5 SCC 397 **“Thomson Press (India) Limited vs. Nanak Builders & Investors Private Limited and others”**.

On the other hand, learned counsel for the respondent(s) has vehemently contended that subsequent vendee is not a necessary party as the transfer of the property during the pendency of the suit is governed by the rule of lis pendens. He submits that the plaintiff is only wanted to delay the trial of the case.

Taking into consideration, the facts noticed above and the

subsequent vendee should be a party, the Court committed an error in refusing to allow the plaintiff to implead subsequent vendee as a party-respondent. It has been held by the Hon'ble Supreme Court in the judgment Thomson Press (supra) that subsequent vendee should be allowed to be implead as a party, so that in case of decree, the plaintiff is able to effectively execute the decree.

In view thereof, the order under challenge is set aside. Shri Harish Chander is added as defendant No.5 in the suit.

However, the suit for specific performance was instituted on 14.06.2005 and is pending in the civil Court for the last more than 12 years.

Taking into consideration these facts, learned trial Court is requested to expeditiously decide the suit preferably within a period of 9 months.

Counsel representing Harish Chander, the party added is present in Court. In view thereof, the service on Harish Chander shall stand waived for the purpose of suit.

Parties through their counsel are directed to appear before the learned trial Court on 19.03.2018 and on that day, Shri Harish Chander shall file his written statement.

Hence, these revision petitions are disposed of.

26.02.2018
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(ANIL KSHETARPAL)
JUDGE

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