

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

CR No.2777 of 2018

Date of decision: 30th April, 2018

Ritu Rani

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Jangvir S. Hooda, Advocate for the petitioner.

FATEH DEEP SINGH, J.

Tara Chand and one Rupa Devi filed against the State of Haryana and others a suit for declaration and mandatory injunction and at the stage of rebuttal evidence and arguments an application under Order XXII Rule 10 CPC was moved by the applicant Ritu Rani, present revisionist, seeking prayer of substitution on the grounds that she has purchased the disputed property from plaintiff No.2.

It is stand of the defendant-State that the State Government had acquired the land through Rehabilitation Department in the year 1967 and which stands transferred to PWD Department for establishment of residential colony and offices of PWD and therefore, the State Government was in actual possession of the property since more than 47 years.

In the light of arguments raised by learned counsel for the revisionist petitioner, initially it was a suit for declaration and mandatory

injunction and the applicant claims that she has purchased share of plaintiff No.2 through registered sale deed dated 23.02.2018 and thus, claims to have acquired the interest in the property. The suit is at final adjudication upon rebuttal and arguments and as per the present stand of the applicant, such a substitution would change the very nature of the suit and de-novo trial is not called for. Since the relief being claimed is of mandatory injunction with declaration and it is stand of the Department that possession vests with the State Government, how with such an alienation at the final stage of the suit by plaintiff No.2 in favour of the revisionist would be tantamounting to handing over of possession of the property to a new incumbent and its legitimate and invariable acceptance. Since it is the stand of the defendant Department that the plaintiffs have no right over the property in question and thus, by that analogy the right to alienation by way of sale is certainly put to jeopardy and therefore, the applicant cannot lay claim that she has come to be the owner in possession and therefore, there was a need for her substitution. Even otherwise, she can lay claim through a separate suit. Besides the fact, if at this juncture the application is allowed, would certainly open fresh ground to the applicant to lead her defence and therefore may also result in amendment of the pleadings and de-novo trial which would be contrary to the principles of law. The Court below in the impugned order has rightly drawn the inference that it is the requirement of law that suits are decided finally on merits and by doing so would prolong the matter unnecessarily. The grievance, if any, of the applicant, she is well within

her rights to have recourse to law, if so advised and even her cause of action is quite different from that of her alleged predecessor in interest. The impugned order does not suffer from any illegality or perversity and is therefore upheld and the revision petition being without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

April 30, 2018
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No