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

CM No. 15971-CII of 2018 in/and
CR No. 3864 of 2018
Date of Decision: 16.08.2018

Sulekha and another

....Petitioners

Vs

Hardeep Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Dr. Naresh Kaushik, Advocate,
for the petitioners.

Mr. Sanjeev Sharma, Advocate,
for respondents No.3 and 4.

RAJ MOHAN SINGH, J.(Oral)

CM No. 15971-CII of 2018

With the concurrence of both the parties, the main
case is taken up today for final disposal.

Application stands disposed of.

CR No. 3864 of 2018

1. Petitioner has assailed the order dated 05.05.2018
passed by Civil Judge (Junior Division), Panchkula vide which
application filed by defendants No.3 and 4 under Order 1 Rule
10 CPC was allowed.

2. Respondents-defendants No.3 and 4 are co-sharers in the land which is subject matter of agreement to sell. They have been allowed to be impleaded in a suit for specific performance filed by the plaintiff. Even though the co-sharers are in possession of different parcels of land on account of family settlement, but their possession is always subject to partition by metes and bounds.

3. On the strength of **Sh. Chander Parkash Malhotra vs Sh. R.B.S. Chahal, 1994(1) RCR (Rent) 312** and **Lal Chand vs Shri Jagdish Chand (deceased, through his LRs) son of Shri Narain Singh son of Shri Arjun, 2013(23) RCR (Civil) 265**, if a stranger to the family settlement intends to purchase share of one of the co-sharer, then he is entitled to possession only after partition.

4. In the instant case, the indulgence granted by the trial Court in allowing the application under Order 1 Rule 10 CPC is on legal parameters as in the event of decretal of the suit to the extent of share of the prospective vendor, defendants No.3 and 4 would be materially prejudiced and they have their legal right to be impleaded in the suit in respect of unpartitioned share of their co-sharer/prospective vendor/defendant.

5. In view of aforesaid position, no indulgence can be granted in favour of the petitioner. In any case, they are

necessary and proper parties to the suit in question.

6. This revision petition is accordingly, dismissed.

16.08.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No