

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

CR No.5212 of 2015 (O&M)

Date of decision:26.11.2018

William Singh Sandhu @ Diljider Singh Sandhu ... Petitioner

Vs.

Jagdish Varinder Singh Sandhu and others ... Respondents

CR No.907 of 2016 (O&M)

William Singh Sandhu @ Diljider Singh Sandhu ... Petitioner

Vs.

Prineet Kaur ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.R.B.S.Chahal, Advocate
for the petitioner.

Mr. Prateek Gupta, Advocate
for respondents no.1 and 2.

Mr. Vivek Suri, Advocate
for respondent No.3.

AMIT RAWAL J.

This order of mine shall dispose of two revision petitions bearing Nos.5212 of 2015 (hereinafter referred to as “first revision petition”) and 907 of 2016 (hereinafter referred to as “second revision petition”).

The first revision petition has been preferred by the petitioner-plaintiff against the impugned order dated 16.05.2015 (Annexure P-7),

whereby, Vishranti City Residents Welfare Society has been allowed to be impleaded as defendant no.3 under Order 1 Rule 10 of Code of Civil Procedure, in a civil suit bearing No.108 of 2010 pending in the Court of Civil Judge (Senior Division), Patiala and second revision petition is directed against the order dated 09.12.2015 (Annexure P-3), whereby, an application submitted by the petitioner-defendant in a civil suit bearing no.361 dated 16.08.2010, for staying the proceedings under Section 10 of Code of Civil Procedure, has been dismissed.

Mr. R.B.S.Chahal, learned counsel appearing on behalf of the petitioner(s) submitted that the defendants in the civil suit no.108 of 2010 vide interim order were restrained from raising the construction. The Local Commissioner submitted his report dated 12.03.2013, wherein, it was found that the construction was being carried out on the suit land.

However, respondents no.1 and 2 in order to wriggle out from the contempt and disobedience of the order started raising the construction over the colony under the name and style M/s Vishranti City. Respondent no.3 could not be impleaded as defendant no.3, for, no relief or claim had been sought. The petitioner is *dominus litius* and cannot be forced to implead the party. As per settled law, third party alleged to have claimed interest and title in the property owing to subsequent transactions, cannot be permitted to be added as it would change the nature of the suit property and remedy was to seek the redressal by filing a separate suit.

The suit has not been filed under Specific Relief Act, therefore, the impugned order allowing the application under Order 1 Rule 10 CPC, is

not sustainable.

In second revision petition, he submitted that the petitioner-defendant had already filed a suit bearing No.108 of 2010 for declaration challenging the mutation no.425 of village Khusropur, Tehsil & District Patiala and mutation no.1693 of village Singhpura, Tehsil Derabassi which had been sanctioned on the basis of alleged agreement of exchange dated 24.07.2007 entered between Prineet Kaur and her husband Jagdish Varinder Singh which was registered against the provisions of law and suit is for possession for agricultural land measuring 23 bighas situated in vilalge Singhpura as well as for use and occupation charges. The suit bearing no.108 of 2010 was filed on 02.06.2010 much before filing of the suit bearing No.361 dated 16.08.2010. In the present suit, the plaintiff was not required to file the suit in case the summons had been received by the defendants under the provisions of law. The Court below has committed illegality in not staying the proceedings of suit, therefore, it can result into two different decision in respect of the same suit land.

Mr. Prateek Gupta and Mr. Vivek Suri, learned counsel appearing on behalf of respondents No.1&2 and 3 (in CR No.5212 of 2015) opposed the averments made in the revision petition and relied upon the ratio decidendi culled out by the Hon'ble Supreme Court in **Thomson Press (India) Ltd. vs. Nanak Builders & Investors P.Ltd. and others 2013(2) RCR (Civil) 875**, to contend that defendant is necessary and proper party to be joined as in his absence, effective order cannot be passed. It would

enable the Court to completely and effectively and properly adjudicate upon all the matters and issues and thus, urged this Court for dismissal of the petitions.

I have heard the learned counsel for the parties and appraised the paper book.

The Court below has allowed the application for impleadment of M/s Vishranti City Residents Welfare Society simply on noticing the fact that plaintiff had alleged that defendants no.1 and 2 in order to wriggle out from the injunction order started raising construction under the name and style of Vishranti City Residents Welfare Society, having set of Directors. Concededly, the construction according to the plaintiff is being made over the suit property in the form of the colony by the persons who have purchased the plot. The defendant no.3 has relied upon the CLU certificate issued by the Director, Urban Development Town Planning.

The pith and substance of the suit is for declaration, challenging the mutations, possession and recovery of use & occupation charges, much less injunction. In such circumstance, I am of the view that defendant no.3 is proper and necessary party and order allowing the application for impleadment cannot be said to be suffering from illegality and perversity.

The revision petition bearing No.5212 of 2015 is dismissed.

As regards second revision petition, I am of the view that since part of the suit property in civil suit bearing no.361 dated 16.08.2010 is subject matter of suit bearing no.108 of 2010 pending in the Court of Civil

Judge (Senior Division), Patiala. Instead of pondering upon the contents of the application under Order 10 CPC, it would be in the fitness of things, while exercising the power of superintendence under Article 227 of the Constitution of India, I deem it appropriate to transfer the civil suit bearing No.361 dated 16.08.2010 titled as “Prineet Kaur vs. William Singh Sandhu alias Daljinder Singh Sandhu” (Annexure P-1) to the same Court which is seized of the suit bearing No.108 of 2010 titled as “William Singh Sandhu alias Diljinder Singh Sandhu Vs. Jagdish Varinder Singh Sandhu and another” to be decided together.

Revision petition bearing No.907 of 2016 stands disposed of.

(AMIT RAWAL)
JUDGE

November 26, 2018
savita

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