

CR-4782-2018

Date of Decision : 30.07.2018

Savitri Devi

.....Petitioner

versus

Krishna and another

....Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL**Present:** Mr. Sanjay Vij, Advocate
for the petitioner.**DEEPAK SIBAL, JUDGE (ORAL)**

The petitioner filed a declaratory suit with consequential relief of permanent injunction against respondent No.2 in which the case set up by her was that vide a registered sale deed the suit property, as described by her in the plaint had been sold by the petitioner to respondent No.2 but since, respondent No.2 had not paid the amount due to the petitioner, the suit property continued to be in her possession. On the strength of the afore averments, the petitioner prayed that the sale deed executed between the petitioner and respondent No.2 be declared null and void.

At the stage of filing of written statement, respondent No.1 filed an application under Order 1 Rule 10 CPC seeking therein to be impleaded as a respondent on the ground that neither the petitioner nor respondent No.2 had any right, title or interest in the suit property and that it was respondent No.1 who was co-owner/co-sharer in the same. It was further averred that the petitioner and respondent No.2 had colluded with each other to get a collusive decree *qua* the suit property and if such a collusive decree would be passed, it would effect the rights of respondent No.1 being a co-sharer in the suit property.

Since it was admitted that respondent No.1 was a co-sharer in the suit property, the Trial Court was of the opinion that any declaration in favour of the petitioner was bound to effect respondent No.1 and therefore, respondent No.1 was a necessary party to the suit.

The order of the Trial Court has been perused and since it is admitted that respondent No.1 is a joint owner of the suit property, no fault can be found in the order impugned in the present petition making her a party to the suit, especially in the light of the allegations of respondent No.1 that the petitioner and respondent No.2 are in collusion with each other.

Dismissed.

(DEEPAK SIBAL)
JUDGE

30.07.2018
Neha

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No