

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

CR-5409-2016 (O&M)

Date of decision : 15.3.2018

Vijay Pal and another

..... Petitioners

Versus

Man Mohan and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ankit Grewal, Advocate for the petitioners.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 22.7.2016 (Annexure P-1), passed by learned Civil Judge (Senior Division), Faridabad vide which an application filed by the present petitioners namely Vijay Pal and Devender Singh under Order XXII Rule 10 of the Code of Civil Procedure, 1908 was dismissed.

The background of the case is that in this case, preliminary decree was passed way back in the year 1971. The said decree was ultimately upheld. An application for passing of the final decree was filed in 2006 and is still pending. In the meanwhile, defendant-Siri Ram died. His legal heirs namely Rajinder; Smt. Rajendri; Smt. Raj Wati; Smt. Parwati and Chander Wati were impleaded. Said legal heirs sold the property measuring 5 ½ marlas to Deepak and Subhash Sharma through sale deed dated 16.10.2009 who are one of the legal heirs of Smt. Rajendri. They further sold the property in dispute through registered sale deed dated

19.10.2012 to the present petitioners-Vijay Pal and Devender Singh. Now, Vijay Pal and Devender Singh filed an application under Order XXII Rule 10 of the Code of Civil Procedure, 1908 to be impleaded as party, which was dismissed by learned trial Court on 22.7.2016.

I am of the view that in this case, LRs of Siri Ram are already made party and they are defending the case. The present petitioners purchased the part of the suit property during the pendency of the application for passing a final decree and any decree passed in this case will be binding upon them. The order XXII Rule 10 CPC pertain to the impleading of the legal heirs and assignee etc. Present petitioners are not the assignee but they purchased the property during the litigation and the *Rule of lis pendence* will apply to them.

Learned counsel for the petitioners has argued that legal heirs of Siri Ram are not properly defending the case and that no demarcation is to be conducted and they are likely to be adversely effected. Since the present petitioners purchased the property during litigation they are to blame themselves for their act. However, at the time of demarcation any body can be present. Therefore, petitioners can remain present when the demarcation of the disputed property is conducted by a local commissioner for the purpose of submitting the report for passing of the final decree and the present petitioners will step into the shoes of legal heirs of Rajendri.

Learned counsel for the petitioners has relied upon an authority of Hon'ble Supreme Court delivered in **Amit Kumar Shaw and another versus Farida Khatoon and another, (2005) 11 Supreme Court Cases 403,**

to contend that the Court held that transferee *pendente lite* is bound by the final decree passed in the suit that Court has decreation to make him party in this case. Discretion has been exercised by the learned trial Court against the present petitioners holding that transfer during the pendency of the final decree is only to prolong the proceedings. The initial decree was passed in the year 1971 and the matter is lingering on for the last about 47 years. Therefore, in this case discretion was properly exercised.

With the above noted observations revision is dismissed.

Since, the main petition stands dismissed, the miscellaneous application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

15.3.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No