

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

Sr. No.122

C.R. No.5958 of 2018

Date of decision: 30.10.2018

Satish Kumar

....Petitioner

versus

Lekh Ram and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. R.A. Sheoran, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 02.08.2018 passed by the Civil Judge (Junior Division), Charkhi Dadri (for short – 'the Trial Court') dismissing the application filed by the petitioner under Order 1 Rule 10 CPC seeking therein his impleadment in a suit for specific performance preferred by respondent No.1 against respondents No.2 and 3.

Learned counsel for the petitioner submitted that the petitioner had initiated litigation seeking a share in the property which was the subject matter of the suit filed by respondent No.1 against respondents No.2 and 3 and therefore, to protect his rights, he was seeking his impleadment in the aforesaid suit. It was further submitted that the Trial Court erred in rejecting the petitioner's application on the ground that the petitioner's suit, through which he sought his share in the suit property, had been dismissed by the Trial Court since an appeal against such dismissal was pending before the Appellate Court.

After considering the afore submissions, no merit in the same is

found.

Respondent No.1-Lekh Ram had filed a suit against respondents No.2 and 3 seeking therein specific performance of agreement dated 19.05.2014 with respect to the suit property. The plaintiff being dominus litis, is entitled to choose the persons against whom he wishes to litigate. That being so, as also for the reason that the petitioner was not a party to the aforesaid agreement, the specific performance of which is sought, he has no right to be impleaded as a defendant.

Even otherwise, the suit property was allegedly sold by respondent No.2-Poonam having inherited the same from one Sita Ram. The petitioner claims to be the adopted son of Sita Ram. The petitioner's right on the property of Sita Ram as his adopted son was claimed by him through a suit which has been dismissed by the Trial Court through its judgment and decree dated 26.02.2018. It is true that an appeal preferred by him against the aforesaid judgment and decree is pending but in the facts and circumstances of this case, mere pendency of such appeal would not entitle him to be impleaded as a party in the suit for specific performance preferred by respondent No.1 against respondents No.2 and 3.

In view of the above, no error is found in the order impugned in the present proceedings.

Dismissed.

(DEEPAK SIBAL)
JUDGE

October 30, 2018

Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No