

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

CR No.6399 of 2015

Nayem Khan

....Petitioner

Versus

Krishan Kumar and Anr.

....Respondent

Date of Order: 27.3.2018

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Saravpreet Gurna, Advocate for the petitioner.

Mr. H.S. Bhatia, Advocate for the respondents.

AMIT RAWAL, J (ORAL)

Petitioner-plaintiff has challenged the impugned order dated 12.8.2015 passed by learned Civil Judge (Jr. Division), Ludhiana whereby his application moved under Order 1 Rule 10 and Order 6 Rule 17 read with Section 151 CPC for impleadment of parties as described in the head note of the petition as also for amending the plaint has been dismissed

The petitioner-plaintiff instituted the suit for specific performance of agreement to sell dated 24.3.2005 and writing dated 20.5.2005 entered into between the plaintiff and respondent-defendant No.2 through his General Power of Attorney/respondent-defendant No.1 in respect of a house for total sale consideration of Rs.5 lacs. During the pendency of the suit, when the petitioner acquired knowledge that the General Power of Attorney was not executed by defendant No.2 alone rather was executed by two other persons, namely, Tejinder Singh and Rajinder Singh sons of Gurmukh Singh son of Gurdit Singh, residents of Backside Petrol Pump, Salem Tabri, Ludhiana also being co-owners of the suit property, filed the application for impleadment as also for amendment in the

plaint so that the evidence if lead would not be rendered beyond pleadings.

Learned counsel for the petitioner submitted that the trial Court has gravely erred while rejecting the application. Defendant Nos.3 & 4 are necessary parties for proper adjudication of the present lis being co-owners of the suit property. Moreover, the petitioner being the dominus litis in the suit was entitled to implead the persons whom he desired.

Learned counsel for the respondent submitted that the impugned order is perfectly legal and justified and the plaintiff was not diligent in complying the Policy of “Buyer BEWARE” and had lost right to implead the aforesaid persons. The suit was barred by the provisions of Order 2 Rule 2 CPC.

After hearing learned counsel for the parties and perusing the case file carefully, I find that there is merit in the present petition. The facts noticed hereinabove are not in dispute. The power of attorney was not executed by defendant No.2 alone rather was executed by aforesaid two other persons also being co-owners of the suit property and in these background of the matter, the plaintiff being diligent sought amendment of the plaint with fresh pleadings against the proposed defendants. In my view, such facts are essential for proper adjudication and it would help the Court in deciding the lis between the parties. Even at the time of issuing notice of motion, learned counsel for the petitioner had undertaken that he would not lead any fresh evidence and this fact also eliminates the possibility of delaying the matter unnecessarily. Even otherwise, as per the judgment of Hon'ble Supreme Court reported as **Robin Ramjibhai Patel Vs. Anandibhai Rama @ Raja Ram Pawar & Ors, 2017 (1) RCR (Civil) 170**, wherein it has been held that in a suit if the vendee moves an

application for impleadment, such impleadment should be allowed.

Resultantly, the present petition is allowed. The impugned order dated 12.8.2015 is set aside and the plaintiff is allowed to implead aforesaid Tejinder Singh and Rajinder Singh as defendant Nos.3 & 4 respectively and amend the plaint.

March 27, 2018
manoj

^(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No