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

CR No. 7321 of 2015 (O&M)

Date of Decision: 16.07.2018

Baljeet Singh

....Petitioner

Vs

Raj Kumar and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. C.B. Goel, Advocate, and
Ms. Sangeeta Ahlawat, Advocate,
for the petitioner.

Mr. Suryakant Gautam, Advocate,
for respondents No.1 to 3.

RAJ MOHAN SINGH, J.(Oral)

1. Petitioner has assailed the order dated 13.10.2015 passed by Civil Judge (Junior Division), Panipat vide which application filed by the petitioner under Order 1 Rule 10 CPC was dismissed.

2. Plaintiffs filed a suit for permanent injunction against the defendants on the basis of their sale deed dated 08.05.2008 in respect of 06 biswas being 120/2160 shares of 05 Bigha-08 Biswa of Khasra No.3570 (2 Bigha- 2 Biswas) and 3571/2 (3 Bigha- 6 Biswas). Plaintiffs asserted that suit land is measuring 300 square yards and is depicted by letters ABCD in the site

plan attached with the suit. One of the dimension given in respect of suit land was "East: 85 Feet- Wall of Gandhi Mandi."

3. As per the written statement filed by defendants No.1 to 3, they have alleged that defendant No.3 Tasbir Kundu, Smt. Gobindi Bai, Tilak Raj Vij and Smt. Nishu were owner in possession of 41/101 share measuring 2 Bigha- 1 Biswa out of land comprised in Khasra No.3571/1 (1-10), 3572/2 (2-14) and 3573/2 (0-17). The aforesaid persons sold the property to defendant No.1 vide sale deed dated 20.12.1999 and possession was also handed over to defendant No.1.

4. Defendants further pleaded that the aforesaid area is in possession of defendant No.1 and the plaintiffs have no concern with the same. Some overt act has been pleaded in the written statement at the instance of the plaintiffs in order to take forcibly possession of the land in question. Sale deed dated 08.05.2008 executed by Gian Chand Kataria, Dev Raj Kataria, Satish Kumar Kataria, Ashok Kumar Kataria, Varinder Nath Kataria, Ravinder Nath Kataria and Davinder Nath Kataria was claimed to be forged and bogus in respect of 120/2160 share measuring 6 Biswas comprised in Khasra No.3570 (2-2), 3571/2 (3-6). The dimensions in respect of Khasra No.3571/1 owned by defendant No.1 are also claimed to be wrongly given.

5. Petitioner is alleged to have purchased Khasra

No.3571/1 (1Bigha- 10Biswas) i.e. 12 Biswas 02 Biswansi measuring 613.78 square yards from defendant No.1 vide registered sale deed dated 16.09.2015. Thereafter, petitioner filed an application under Order 1 Rule 10 CPC being vendee lis pendens under defendant No.1.

6. By referring to Aks-Shijra and report of Local Commissioner, learned counsel for the petitioner contends that the land between Khasra No.3571/2 and wall of Gandhi Mandi, Panipat, there is a vacant plot for which dimensions towards Gandhi Mandi would remain the same.

7. Since the petitioner is vendee lis pendens under defendant No.1 having purchased the plot on 16.09.2015, therefore, ratio of **Thomson Press (India) Ltd. vs. Nanak Builders and Investors (P) Ltd., 2013(2) RCR (Civil) 875, Balwant Singh and another vs Saroj Kumar and others, 2014(1) RCR (Civil) 421 and AIR 2015 Supreme Court 1264** would apply to the case of the petitioner.

8. As against this, learned counsel for respondents No.1 to 3 submitted that the area so purchased by the petitioner falls in Khasra No.3571/1 and as the same has distinct khasra number having no overlapping over Khasra No.3571/2.

9. It appears from Aks-Shijra that there is a vacant plot between the land of the plaintiff as well as Gandhi Mandi for

which wall would remain the same. The explanation given by the petitioner would be tested with reference to material on record. Since the petitioner has purchased the property during pendency of the suit and he has stepped into the shoes of defendant No.1.

10. In view of above, even if it is presumed that he is not necessary party to the suit being vendee lis pendens, still he can be treated to be a proper party.

11. For the reasons recorded hereinabove, I deem it appropriate to set aside the impugned order. Application under Order 22 Rule 10 CPC is accepted and revision petition is allowed.

12. Normal consequences to follow.

16.07.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No