

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7379 of 2015
Date of Decision: November 30, 2018

Charanjit Singh

...Petitioner

Versus

Jaswant Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Viren Jain, Advocate,
for the petitioner.

Mr. Namit Gautam, Advocate,
for respondent Nos.2 to 5.

AMIT RAWAL, J. (Oral)

As per office report, respondent No.1 has been served, but there is no representation on his behalf.

The short point involved in the present revision is whether by filing an application for impleadment of two persons, namely, Sudha Arora and Jagdeep Singh as defendant Nos.6 and 7, being subsequent vendees disclosed by defendant Nos.2 to 5, can be impleaded in a suit for specific performance of the agreement to sell or not.

Mr. Viren Jain, learned counsel appearing on behalf of the petitioner submitted that initially suit for specific performance of the agreement to sell in question was filed against Jaswant Singh defendant No.1. During the pendency of the suit, clients of Mr.Namit Gautam, who have already been arrayed as respondent Nos.2 to 5 being subsequent purchasers, disclosed further sale to the aforementioned persons. Once the aforementioned persons, vide separate application, have been allowed to be

impleaded, there could not have been a possible objection for non-impleadment of the aforementioned persons in view of the ratio decidendi culled out by Hon'ble the Supreme Court in **Thomson Press (India) Ltd. Versus Nanak Builders & Investors P.Ltd. and others,** 2013(2) R.C.R. (Civil) 875.

Mr. Namit Gautam, learned counsel for respondent Nos.2 to 5 does not dispute the impleadment of the defendants, but, however stated that there has to be an end for impleadment, otherwise suit cannot proceed on merits.

I have heard the learned counsel for the parties, appraised the paper book and of the view that once the subsequent vendees, at their own requests, have been impleaded, they cannot possibly oppose the impleadment of subsequent vendees sought to be impleaded as defendants No.6 and 7, particularly when it was disclosed by them only. The aforementioned view of mine is supported by the observations made in Paragraph 22 of the judgment cited supra. The same reads thus:-

*22. In the case of **Vidhur Impex** (supra), the Supreme Court again had the opportunity to consider all the earlier judgments. The fact of the case was that a suit for specific performance of agreement was filed. The appellants and Bhagwati Developers though totally strangers to the agreement, came into picture only when all the respondents entered into a clandestine transaction with the appellants for sale of the property and executed an agreement of sale which was followed by sale deed. Taking note all the earlier decisions, the Court laid down the broad principles governing the disposal of application for impleadment. Paragraph 36 is worth to be quoted hereinbelow:*

“Though there is apparent conflict in the observations made in some of the aforementioned judgments, the broad principles which should

govern disposal of an application for impleadment are:

- 1. The Court can, at any stage of the proceedings, either on an application made by the parties or otherwise, direct impleadment of any person as party, who ought to have been joined as Plaintiff or Defendant or whose presence before the Court is necessary for effective and complete adjudication of the issues involved in the Suit.*
- 2. A necessary party is the person who ought to be joined as party to the Suit and in whose absence an effective decree cannot be passed by the Court.*
- 3. A proper party is a person whose presence would enable the Court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person in favour of or against whom a decree is to be made.*
- 4. If a person is not found to be a proper or necessary party, the Court does not have the jurisdiction to order his impleadment against the wishes of the Plaintiff.*
- 5. In a Suit for specific performance, the Court can order impleadment of a purchaser whose conduct is above board, and who files Application for being joined as party within reasonable time of his acquiring knowledge about the pending litigation.*

However, if the applicant is guilty of contumacious conduct or is beneficiary of a clandestine transaction or a transaction made by the owner of the suit property in violation of the restraint order passed by the Court or the Application is unduly delayed then the Court will be fully justified in declining the prayer for impleadment.”

For the reasons stated above, the impugned order is set-aside.

Consequently, the application for impleadment of the aforementioned persons as defendant No.6 and 7 is allowed. Revision petition stands allowed.

November 30, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No