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

CR-526-2019

Date of Decision: 24.01.2019

Pawan Kumar

.....Petitioner

Vs

Anita Rani and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vikas Mohan Gupta, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

Petitioner is aggrieved of order dated 03.11.2018 vide which respondent No. 2 was allowed to be impleaded as defendant No. 2 in a civil suit.

Plaintiff/petitioner filed a suit for permanent injunction against respondent No. 1 who happens to be his sister-in-law in terms of agreement to sell dated 20.06.2014. Status quo was granted by the trial Court vide order dated 23.01.2017. On 03.11.2018, application filed under Order 1 Rule 10 of Code of Civil Procedure (for short 'CPC') by respondent No. 2 was allowed. The application filed under Order 6 Rule 17 CPC by the petitioner for converting the suit of prohibitory mandatory

injunction to specific performance was also made.

Vide order dated 03.11.2018, respondent No. 2 was also made party as defendant and on the even date, status quo was also ordered against the respondent No. 2 as well.

In CR No.9263 of 2018, respondent No. 2 has preferred to assail the order dated 03.11.2018 and 28.11.2018 on number of grounds. Vide order of even date, this Court has disposed of the aforesaid CR No.9263 of 2018 with a direction to the petitioner therein to move an appropriate application before the trial Court within a week for vacation of stay and trial Court has been directed to dispose of the same within a period of 7 days in accordance with law.

The respondent No. 2 is a secured creditor. As per the case set up by the respondent No. 2, the plea under Section 34 of 'The Securitisation Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002' (for short 'SARFAESI act) could not be taken care of by the trial Court at the appropriate stage. The impleadment of respondent No. 2 in any case cannot be held to be illegal particularly when initially suit filed by the plaintiff was only for injunction that too before the execution of sale deed and infact plaintiff get it changed from permanent injunction to specific performance. For a specific performance, respondent No. 2 would be necessary

party in any eventuality.

There is no error of jurisdiction passed by trial Court in impleading respondent No. 2 as necessary party in the suit. The revision petition is devoid of any merit.

Dismissed.

January 24, 2019

Harish Kumar

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

Yes/No