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

CR No. 1877 of 2016 (O&M)
Date of Decision: 13.03.2019

Krishan Kumar @ Krishan Chand

-Petitioner

Vs

Sahab Singh (now deceased) through LRs and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Abhinav Sood, Advocate, for
Mr. Vikram Singh, Advocate,
for the petitioner.

Mr. Sumit Gupta, Advocate,
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

On 30.11.2018, following order was passed:-

“At the time of issuance of notice of motion on 14.03.2016, operation of the impugned order was stayed vide which respondent No.2 Santokh Singh was impleaded as party defendant in the suit for specific performance filed by the plaintiff/petitioner. The suit filed by the plaintiff/petitioner for specific performance was based on agreement to sell dated 23.05.2008. The subsequent agreement to sell

dated 03.02.2012 was executed by respondent No.1 in favour of respondent No.2 Santokh Singh. On the basis of subsequent agreement to sell dated 03.02.2012, respondent No.2 Santokh Singh filed his independent suit for specific performance which was dismissed vide judgment and decree dated 26.03.2018. Referring to the aforesaid facts, learned counsel for the applicant/petitioner contends that once the independent suit filed by respondent No.2 based on agreement to sell dated 03.02.2012 was dismissed on 26.03.2018, respondent No.2 cannot be presumed to be necessary and proper party in the suit filed by the plaintiff.

Notice of this application be issued to the learned counsel opposite for 13.03.2019 i.e. the date already fixed in the main case.

Till the next date of hearing, interim order dated 14.03.2016 shall remain in operation.”

Factum of adjudication of independent suit filed by respondent No.2 on the basis of agreement to sell dated 03.02.2012 vide judgment and decree dated 26.03.2018 passed by the trial Court has been admitted by learned counsel for the

respondents.

Learned counsel for the respondents has also admitted that rights of respondent No.2 have been adjudicated in the subsequent suit based on agreement to sell dated 03.02.2012. Once the independent suit filed by respondent No.2 on the basis of agreement to sell dated 03.02.2012 was dismissed, therefore, impleadment of respondent No.2 as party defendant in a suit for specific performance filed by the plaintiff-petitioner on the basis of agreement to sell dated 23.05.2008 is not proper because subsequent agreement to sell was executed by respondent No.1 in favour of respondent No.2 having genesis in the original agreement dated 23.05.2008.

In view of aforesaid admitted position, this revision petition has to be allowed.

Consequently, impugned order dated 19.02.2016 passed by Civil Judge (Senior Division), Karnal is hereby set aside.

Normal consequences to follow.

13.03.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No