

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

209

**CR No.2148 of 2014(O&M)
Date of Decision:01.11.2019**

JAGIR SINGH

.....Petitioner

Versus

HARCHAND SINGH & ORS

.....Respondents

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

Present: Mr.Amit Arora Advocate
for the petitioner.

Mr.H.S.Baath,Advocate
for respondent No.1.

Mr.M.S.Bal, Advocate
for respondents No.3 and 4.

RAJ MOHAN SINGH, J.(Oral)

Vide order dated 16.10.2019, last opportunity was granted to the petitioner to bring on record legal representatives of deceased respondent No.2 (if any).

Learned counsel for the petitioner, by referring to the memo of revision petition, states that respondent No.2 being wife of Gurnam Singh son of Kartar Singh is one of the proforma respondent along with Harjit Kaur wife of Kuldeep Singh son of Kartar Singh and Harjinder Kaur wife of Gurdev Singh son of Kartar Singh, therefore, service qua respondent No.2 through

her legal representatives be dispensed with. Ordered accordingly.

Petitioner has preferred this revision petition against the order dated 18.12.2013 passed by the Civil Judge (Jr.Divn.), Patti District Tarn Taran, vide which application filed by the defendant-petitioner under Order 7 Rule 11 CPC for rejection of plaint was dismissed.

Learned counsel for the petitioner states that the cause of action for filing a suit for specific performance cannot be prior to the target date for execution of the sale deed as per agreement to sell. The suit was filed on 8.7.2013, whereas the target date for execution of sale deed was 5.8.2013. The agreement to sell was executed on 4.6.2012.

After hearing learned counsel for the parties, I find that para Nos. 5 and 9 of the plaint shows that defendants No.2 to 4 have been impleaded on the premise that they are not bona fide purchasers in good faith. The impleadment of defendants No.2 to 4 in the suit itself would suffice to prove the allegations of the plaintiff. Defendants No.2 to 4 have purchased the suit land during currency of agreement to sell. The cause of action depends upon bundle of facts and that ground alone is not sufficient to attract provisions of Order 7 Rule 11 CPC in isolation. On factual matrix, it can be seen that

defendants No.2 to 4 are wives of Gurnam Singh, Kuldeep Singh and Gurdev Singh, who are real brothers of defendant No.1.

In view of aforesaid, Order 7 Rule 11 CPC whether would depend upon leading of evidence in the situation is a fact to be ascertained during trial. In order to appreciate the controversy in detail, presence of defendants No.2 to 4 would be necessary in this case. Today, in view of statement made by learned counsel for the petitioner, the presence of respondent No.2 is sought to be dispensed with.

For the reasons recorded herein above, I find that plea of cause of action alone is not sufficient to attract ingredients of Order 7 Rule 11 CPC. There is no error of jurisdiction in the order passed by the trial Court, while rejecting the application under Order 7 Rule 11 CPC.

This revision petition is found to be totally devoid of merits and is accordingly dismissed.

November 01, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No