

In the High Court of Punjab and Haryana at Chandigarh

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CR No. 3591 of 2018 (O&M)

Date of decision:03.5.2019

Shaffy Goyal and another

.....petitioners

Versus

Satwant Kaur and others

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vikas Behl, Sr.Advocate with
Mr.Namit Gautam, Advocate and
Mr.Akshay Rawal, Advocate,
for the petitioners.

Mr.K.S.Dadwal, Advocate
for respondent No.1.

Mr.P.S.Punia, Advocate
for respondent Nos. 5 and 6.

Ms. Amisha Batra, Advocate for
Mr.G.B.Singh Nagar, Advocate
for respondent No.8.

RAJ MOHAN SINGH, J.(oral)

This revision petition has been filed challenging the order dated 3.2.2018 passed by the Civil Judge (Jr.Divn.), Ludhiana, vide which the application filed by the petitioners under Order 1 Rule 10 CPC for impleading them as party to the suit was dismissed.

Perusal of the record would show that Dayal Singh

was the original owner. He was allotted the suit property by the Improvement Trust, Ludhiana in the category of 'local migrated persons'. Dayal Singh died on 29.9.1996 and the property was devolved upon defendants No.1, 2, 4 and 5 on the basis of Will dated 27.2.1990 executed by Dayal Singh. Defendants No.1, 2, 4 and 5 became transferees of plot No.432-F measuring 400 sq.yards situated in 475 Acre Scheme by virtue of transfer letter dated 4.4.2011 issued by the office of Improvement Trust, Ludhiana. The aforesaid respondents transferred the property in question to Rahul Sukhija on 6.6.2011, who, in turn, transferred the property in favour of Gursharan Kaur vide sale deed dated 16.6.2011. The petitioners purchased the suit property from Gursharan Kaur on 6.4.2017.

Civil suit for possession by way of specific performance was filed by the plaintiff-respondent No.1 against defendants No.1 to 7 on the basis of three agreements of sale. Agreement to sell dated 4.10.2008 was allegedly executed by defendants No. 3 to 5 in favour of the plaintiff. Two agreements were allegedly executed on 8.10.2008. The first agreement was allegedly executed by defendants No.1 and 2 in favour of the plaintiff and the second agreement was allegedly executed by defendant No.6. After the transfer of the property in favour of the petitioners by virtue of sale deed dated 6.4.2017, 'No Objection Certificate' was issued by the Improvement Trust on

the basis of transfer made by Rahul Sukhija in favour of Gursharan Kaur. NOC was issued by the Improvement Trust in favour of Gursharan Kaur on 6.7.2011. Possession was also delivered to Gursharan Kaur after issuance of aforesaid NOC and as a consequence of that even mutation was sanctioned and the factum of title was duly incorporated in the jamabandi for the year 2006-07.

In the aforesaid suit for specific performance, petitioners sought to get themselves impleaded as party defendants and the same has been declined on the premise that the vendees' lis pendens cannot be impleaded, as the transfer is hit by lis pendens and they have purchased the property during the currency of status quo passed by the trial Court. Evidently, Rahul Sukhija and Gursharan Kaur were not impleaded in the suit. In a suit for specific performance, Section 19-(b) of the Specific Relief Act would come into play. The said provision enables the assignee by sale in a suit for specific performance to be impleaded as a party. The aforesaid exception has been carved out in view of nature of suit being a specific performance, wherein the assignee by sale can protect his title and join the proceedings. The principles as laid down in **Thomson Press (India) Ltd. vs. Nanak Builders & Investors P. Ltd. and others, 2013(2) R.C.R. (Civil) 875** can be relied in the aforesaid context. Doctrine of lis pendens is based on the

ground that it is necessary for the administration of justice that the decision of a Court in a suit should be binding not only on the litigating parties, but on those as well, who derive their title pendente lite. This provision does not indeed annul the conveyance or the transfer otherwise to render it subservient to the right of a party to a litigation The assignee by sale in a suit for specific performance can be impleaded as a party to the lis.

In view of law laid by the Hon'ble Apex Court in ***Thomson Press's case (supra)***, I deem it appropriate to accept this revision petition.

Consequently, this revision petition is allowed. The impugned order dated 3.2.2018 passed by the trial Court is set aside. Normal consequences to follow.

Trial Court shall make every endeavour to decide the suit at the earliest by giving short adjournments.

May 03, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking

Yes/No

Whether reportable

Yes/No