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

CR No. 5526 of 2018 (O&M)
Date of Decision: 15.01.2019

Jaswinder Kaur

-Petitioner

Vs

Bhajan Kaur and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vinay Kumar, Advocate,
for the petitioner.

Ms. Bhupinder Kaur, Advocate,
for respondent No.1.

RAJ MOHAN SINGH, J.

This revision petition has been preferred by the petitioner against the order dated 22.05.2018 passed by Civil Judge (Junior Division), Ajnala vide which the application filed by the petitioner under Order 1 Rule 10 read with Section 151 CPC for impleading the petitioner as party defendant No.9 was dismissed.

Civil suit for possession by way of specific performance of agreement to sell dated 24.09.2005 in respect of 8 Kanals being ½ share out of 16 Kanals bearing Khasra No.139//11(4-12), 12min(3-8), 10/2(2-10), 12min(5-10), Khata/ Khatoni No.252/381-382 as per jamabandi for the year 2002-03

including share in tubewell connection, kotha, motor machine situated in village Ramdas, Tehsil Ajnala, District Amritsar with all rights pertaining thereto was filed by respondent No.1 against respondents No.2 to 9.

Petitioner filed an application under Order 1 Rule 10 read with Section 151 CPC on the ground that she is bonafide purchaser of land measuring 4 Kanals out of the aforesaid land by way of two sale deeds dated 17.12.2007 executed by Sawinder Kaur wife of Lakhbir Singh, Manpreet Singh son of Lakhbir Singh, Jaspal Kaur daughter of Lakhbir Singh and Jagjit Singh son of Lakhbir Singh and 11.11.2013 executed by Harpreet Singh, Gurpreet Singh and Kuldeep Singh sons of Lakhbir Singh in respect of land measuring 3 Kanals 10 Marlas from the aforesaid land.

The application was dismissed by the trial Court on the premise that the petitioner is vendee *lis pendens* and cannot be allowed to be impleaded as she was having constructive notice of pendency of the suit. Subsequent purchaser cannot be presumed to be necessary party for decision of a suit as in his absence, rights of the litigating parties can be adjudicated.

I have heard learned counsel for the parties.

Perusal of the record would show that suit for specific performance was filed on 18.07.2007. Written statement came

to be filed by the defendants only on 18.05.2018 i.e. after about 11 years of filing of the suit. Petitioner had purchased the suit property vide two sale deeds dated 17.12.2007 and 11.11.2013 and thereafter filed an application under Order 1 Rule 10 CPC being assignee by sale.

It is true that vendee *lis pendens* has no right to be impleaded under Section 52 of Transfer of Property Act as the presence of subsequent vendee is not at all necessary for adjudication of the question between the plaintiff and the defendant.

Section 19(b) of Specific Relief Act enables the assignee by sale in a suit for specific performance to be impleaded as 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. Doctrine of *lis pendens* is a doctrine 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 party, but on those, who derive title *pendente lite*. This provision does not intend to annul the conveyance or the transfer to render it subservient to the right of a party to the litigation.

In view of ratio as laid down in **Thomson Press**

(India) Ltd. vs Nanak Builders & Investors P. Ltd. and others, 2013(2) RCR (Civil) 875, it can be considered that the assignee by sale in a suit for specific performance can be impleaded as party to the *lis*.

Since the controversy has arisen from a suit for specific performance in which petitioner has purchased the subject matter of suit vide two sale deeds during pendency of the suit.

In view of aforesaid legal position, application for impleading the petitioner under Order 1 Rule 10 read with Section 151 CPC is allowed and the petitioner being assignee by sale is ordered to be impleaded as party defendant No.9 in the suit.

Normal consequences to follow.

15.01.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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