

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 256

CR-8083-2016 (O&M)

Date of decision : 04.07.2019

Dr. Satyapal Khurana

..... Petitioner

VERSUS

Sheela Wanti and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Manohar Lall, Advocate, for the petitioner.

Mr. Vineet Chaudhary, Advocate, for respondent No. 1.

None for respondents No. 2 to 7.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 13.09.2016, passed by the Civil Judge (Junior Division), Ambala (for short, the Trial Court), through which an application filed by the petitioner seeking therein his impleadment in the suit filed by respondent No. 1 has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No. 1 filed a suit through which she sought annulment of General Power of Attorney dated 04.05.1992 allegedly executed by her in favour of her son-respondent No. 8. Also under challenge was the gift deed dated 30.08.2011 by respondent No. 8 in favour of his wife-respondent No. 9 qua the land detailed and described in the head note of the plaint (for short, the suit property). While the suit was pending, the petitioner filed an application under Order 1 Rule 10 CPC seeking his impleadment as a defendant on the ground that respondent No. 9 had sold to him the suit property through a registered General Power of Attorney as also an agreement dated 27.09.2011. He further claimed to be in possession of the suit property. The Trial Court dismissed the application filed by the petitioner primarily on the ground that in her suit respondent No. 1 had challenged the General Power of Attorney and gift deed in

favour of respondents No. 8 and 9 and since the petitioner was not a signatory to these documents, he was not a necessary party. The Trial Court rejected the petitioner's prayer also for the reason that the presence of the petitioner was not necessary before the Trial Court for adjudication of the issues raised by respondent No. 1 in her suit. Such order of the Trial Court is under challenge in the present proceedings.

Learned counsel for the petitioner as also learned counsel for the contesting respondent No. 1 have been heard.

A perusal of the record reveals that respondent No. 1 filed a suit to challenge therein General Power of Attorney dated 04.05.1992 allegedly executed by her in favour of her son-respondent No. 8. Also under challenge was the gift deed dated 30.08.2011 through which, on the strength of the aforesaid General Power of Attorney, respondent No. 8 transferred the suit property in favour of his wife-respondent No. 9. The petitioner seeks his impleadment in respondent No. 1's suit on the ground that, for valuable consideration, through a registered General Power of Attorney and agreement dated 27.09.2011 respondent No. 9 had sold the suit property to the petitioner and it is he who is in possession of the suit property.

In the light of the above facts, if respondent No. 1's suit is decreed and resultantly the Power of Attorney as also the gift deed under challenge are set aside, the basis of the General Power of Attorney and agreement executed by respondent No. 9 in favour of the petitioner would be wiped out, resulting in setting aside of the aforesaid documents in his favour. Thus, the decision to be rendered in respondent No. 1's suit would certainly be prejudicial to and affect the petitioner's rights especially when the petitioner also claims to be in possession of the suit property. That being so, the petitioner is at least a proper party in respondent No. 1's suit.

In view of the above, the impugned order is set aside and the petitioner is ordered to be impleaded as a defendant in respondent No. 1's suit.

The petition is allowed in the above terms.

04.07.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No