

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 2357 of 2019
Date of decision: 7.5.2019

Smt. Raj Kumari

.. Petitioner

v.

Surender Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Tushar Gautam, Advocate for the petitioner.

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AVNEESH JHINGAN, J. (Oral)

Aggrieved of the order dated 14.11.2018 passed by the Additional Civil Judge (Senior Division), Sohna, Gurugram (hereinafter described as 'Civil Court') allowing the application filed under Order I Rule 10 of the Code of Civil Procedure, 1908 (for short, 'CPC') for impleadment of Surender Singh as party, the present petition has been filed.

The facts in brief are that Devender Singh (now deceased) filed a suit for declaration in the year 2014 to the effect that the sale deed bearing Vasika No. 6574 dated 24.3.2014 was obtained by playing fraud and the same was not binding upon him alongwith consequential relief of permanent injunction. As per the pleadings in the petition, Devender Singh entered into an agreement to sell with Raj Kumari-petitioner on 23.12.2013. A sale deed was executed on 24.3.2014. Thereafter the suit was filed. During the pendency of the suit, Devender Singh died. An application was moved by Surender Singh (brother of Devender Singh) under Order I Rule

10 CPC for impleading him as a party. He relied upon a release deed in his favour made by Devender Singh and further produced on record copy of the mutation. The Civil Court allowed the application holding that as Surender Singh is relying upon the release deed and has also placed on record the mutation he is an interested party and is impleaded him being assignee of the share of deceased-plaintiff Devender Singh. Aggrieved of the said order, the present petition has been filed.

Learned counsel for the petitioner argues that the Civil Court erred in allowing the application as no date of release deed has been mentioned in the impugned order.

The contention raised by learned counsel for the petitioner is not well founded. Under Order I Rule 10 CPC, the Court has to come to the conclusion that if it is necessary for determination of the real matter in dispute, it may order a person to be substituted or added as party. In the present case, the sale deed in favour of the petitioner was challenged by the alleged vendor-Devender Singh. Surender Singh has relied upon the release deed in his favour. Moreover, he is brother of Devender Singh and one of the legal representative, in such circumstances, he would be a necessary party. It is important to note that he is relying upon the release deed and has even produced on file the copy of mutation.

The contention of learned counsel for the petitioner that date of release deed has not been mentioned in the impugned order does not enhance his case. The order was with regard to impleading the party only. The said issue regarding date of release deed would be decided by the Civil Court at the appropriate stage.

The revision petition being without merits is dismissed.

(AVNEESH JHINGAN)
JUDGE

7.5.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No