

CR-4033-2019
Date of decision: 08.07.2019

Sham Sunder

...Petitioner

V/s.

Sahil Verma

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Sandeep Bansal, Advocate for the petitioner.

RITU BAHRI, J. (Oral).

The petitioner has come up in revision against the impugned order dated 13.03.2019 (Annexure P-3) whereby his application under Order 1 Rule 10 CPC and Order 6 Rule 17 read with Section 151 CPC for impleading Rakesh Dhir as necessary party in the suit has been dismissed.

Learned counsel for the petitioner contends that plaintiff had purchased the land measuring 7 kanals from defendant situated in village Sataur, Tehsil and District Hoshiarpur vide registered sale deed dated 26.2.2016 for consideration of Rs.7,44,000/-. However, out of 7 kanals of land, 2 kanals 15 marlas has been deducted and possession has been given to Gurbachan Singh and his wife Kamlesh Kaur by Court in execution proceedings vide decree dated 8.1.2019.

During the pendency of the present suit, the defendant sold the entire suit property to one Rakesh Dhir S/o Saran Dass and the mutation has also been sanctioned in his favour. In this backdrop, application under Order 1 Rule 10 ought to have allowed as he is a necessary party.

Perusal of the impugned order dated 13.03.2019 shows that one of the conditions in the sale deed dated 26.02.2016 in favour of the

petitioner was that in case part of sold property is left away from ownership and possession of plaintiff, then the plaintiff has right to get the possession of land from other land of defendant of same kind. Hence, even if 2 kanals 15 marlas was deduced from the land of the plaintiff by Court in execution proceedings vide decree dated 8.1.2019, the plaintiff has a right to get alternative land from the defendant. Since the plaintiff has claimed alternate relief of recovery, an application under Order 1 Rule 10 has been rightly dismissed by the trial Court keeping in view condition mentioned in the sale deed dated 26.2.2016 that in case part of sold property is left away from ownership and possession of plaintiff, the plaintiff can get land from other land of defendant of same kind. Moreover, the petitioner has not mentioned details of any other land in the ownership of defendant and lastly there was no violation of any agreement while making sale in favour of Rakesh Dhir.

Dismissed.

(RITU BAHRI)
JUDGE

08.07.2019
Divyanshi

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