

In the High Court of Punjab and Haryana at Chandigarh

(Proceedings conducted through Video Conference)

CR No. 2648 of 2020

Date of Decision: 15.12.2020

Raj Kumar

---Petitioner

versus

Inderjeet

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. J.P.Sharma, Advocate
for the petitioner**

Rekha Mittal, J.

Challenge in the present petition has been directed against order dated 3.3.2020 (Annexure P-1) whereby application under Order 1 Rule 10 and 6 Rule 17 read with Section 151 of the Civil Procedure Code (in short "CPC") for impleadment of parties and amendment of plaint has been dismissed.

The petitioner-plaintiff filed a suit for specific performance of agreement to sell dated 5.9.2012 in respect of land measuring 10 kanal 7 marlas, purported to be executed by respondent-defendant. The trial reached the stage of culmination when the instant application was filed by the petitioner for impleadment of Babu Lal son of Dharampal, Manoj Kumar son of Somdutt and Jai Bhagwan son of Chailu Ram by contending that respondent-defendant executed agreement to sell in respect of suit property measuring 4 Kanal in favour of the aforesaid persons to cause

loss to the petitioner. It was also pleaded that on the basis of sale agreements, two suits have been filed.

Counsel for the petitioner would argue that since the persons sought to be impleaded as a party have also staked their claim to the suit land on the basis of agreements, purportedly executed by respondent in their favour, impleadment of Babu Lal and others is necessary for complete and effective adjudication of the matter in controversy. It is further argued that the trial court has committed a serious error rather illegality by dismissing the application primarily on the ground that the same has been filed at a belated stage. It is argued that delay itself can not constitute a valid ground for rejecting impleadment of a necessary party or amendment of pleadings, if otherwise required for complete and effective adjudication of the matter.

I have heard counsel for the petitioner and perused the paper book particularly the order impugned.

Be that as it may, the petitioner has sought to implead Babu Lal and others who have also set up two agreements of sale in their favour allegedly executed by the respondent and filed two suits in the court on the basis of those agreements. In the instant case, the subject matter of dispute is agreement to sell dated 5.9.2012 set up by the petitioner-plaintiff. For deciding entitlement of the petitioner to seek specific performance of that agreement, neither Babu Lal and others are a necessary party nor decision on the two agreements set up by them in independent suits filed for the purpose is necessary for complete and effective adjudication of the matter in controversy. On the contrary, if Babu Lal and others are also impleaded as a party and their two agreements are also examined by the Court, that would

enlarge scope of the suit and would introduce matters alien to the issue before the court for deciding entitlement of the petitioner to specific performance of agreement set up by him.

In this view of the matter, neither Babu Lal and others are required to be impleaded as a party nor the consequent amendment in the plaint is warranted. I would hasten to add that counsel may be right in his submission that delay itself is not a ground to reject application for impleadment of a party or amendment of plaint. The reasoning adopted by the trial court may not be correct but in view of observations made hereinbefore, no useful purpose will be served by remitting the matter to decide application afresh except at the cost of prolonging decision of the case that has reached the stage of leading evidence in rebuttal and arguments.

For the foregoing reasons, finding no merit, the petition is dismissed. However, nothing stated hereinabove shall be construed as an expression of opinion on merits of the case.

(Rekha Mittal)
Judge

15.12.2020

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No