IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 937 of 2016 (M/S)

Ram Pyare Bhagat .....Petitioner.

Versus.

Bhim Ratan Rahul & Ors. .....Respondents.

Present:
Mr. Vivek Pathak, advocate for the petitioner.
Mr. T.A. Khan, senior advocate assisted by Mr. Aditya Kumar Arya, advocate for the respondents.

Hon'ble Ravi Malimath, J.

1. Heard learned counsels.

2. The petitioner filed a suit for the cancellation of the sale deed executed by him in favour of respondent no. 1, namely, defendant no. 1. During the pendency of the suit, an application was made seeking to implead respondent nos. 2 to 6, herein, on the ground that the defendant no. 1 has sold the land, in question, to defendant nos. 2 to 6. The trial court by the impugned order allowed the application. Hence, the plaintiff/ petitioner has filed this petition.

3. Learned counsel for the petitioner contends that the suit for cancellation of the sale deed, which was executed in favour of defendant no. 1 was filed by the petitioner, therefore, none of the other defendants are neither necessary nor proper parties to the suit. The trial court, therefore, committed an error in allowing the application for impleadment. The same is disputed by the respondents.

4. On hearing learned counsels, I'm of the considered view that there is no merit in this petition. Even, according to defendant no. 1, defendant nos. 2 to 6 have purchased

the property from defendant no. 1. Therefore, when the sale deed executed by the plaintiff in favour of defendant no. 1 is sought to be questioned in the civil court and when the said properties have been sold to defendant nos. 2 to 6, it is needless to state that defendant nos. 2 to 6 are the necessary and proper parties for the adjudication of the suit. Until and unless defendant nos. 2 to 6 are impleaded the Plaintiff cannot obtain any effective decree against defendant no. 1. The right, title and interest over the land, in question, is also required to be defended by the proposed defendant nos. 2 to 6. Therefore, it is not only in the interest of the defendants but also in the interest of the plaintiff / petitioner that the said defendants come on record.

5. Hence, for all these reasons, I find no good ground to interfere in the well considered order of the trial court. Consequently, the writ petition being devoid of merit is dismissed.

(Ravi Malimath,J.)
26.06.2020

SKS