

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR-7543 of 2018 (O&M)
Date of decision: 14.07.2022**

Santosh Yadav

...Petitioner

Versus

Rohtash and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Tanmoy Gupta, Advocate, for the petitioner.
Mr. Ram Kumar Saini, Advocate, for respondent no.1.**

ANIL KSHETARPAL, J (Oral)

An application filed by the petitioner for impleadment in a pending suit with respect to immovable property has been dismissed by the Court on 09.10.2018. The application has been dismissed on the ground that the applicant is a purchaser during the pendency of the suit and doctrine of lis pendens governs such sale.

The respondents have filed a suit for declaration with a consequential relief of permanent injunction. In the same suit, another application filed by Sh. Ishwar Sharma was dismissed by the trial Court.

This Court has already set aside the aforesaid application filed by Sh. Ishwar Sharma, vide order dated 13.05.2022, which is extracted as under:-

“An application submitted by the petitioner under Order 1 Rule 10 Code of Civil Procedure, 1908, has been dismissed by the trial court. A suit has been filed by Rohtash against his nephew and aunt. In other words the plaintiff and defendant No. 1 and 2 are closely related. The plaintiff claims that the Will executed on 26.2.1971 by Ram Gopal is forged. During the pendency of the suit 32 kanals of land was sold by Yad Ram in favour of Bharat Bhushan. Thereafter, the petitioner has purchased some part of the land vide registered sale deed dated 27.05.2013. The original defendants are not contesting the suit. The petitioner in order to protect his

ownership filed an application for impleadment. He is not a member of the family. The court has dismissed the application on the ground that the transfer in favour of petitioner is governed by the rule of lis pendens. Undisputedly, the rule of lis pendens applies to the transactions during the pendency of the suit. However, the court was required to examine the facts of the case. Here is a case where the defendants, who are the family members of the plaintiff, have chosen not to contest. In such circumstances, unless suit is defended, an ex parte decree would be passed. The petitioner has purchased the property by a registered sale deed on the payment of sale consideration. In such circumstances, the learned trial court has committed a manifest error in dismissing the application under Order 1 Rule 10 Code of Civil Procedure, 1908. Hence, the order dated 05.03.2019 under challenge is set aside. Let the petitioner be impleaded as party and be permitted to contest the suit.

The revision petition stands allowed.

All the pending miscellaneous applications, if any, are also disposed of.”

The petitioner, being subsequent vendee through a registered sale deed, may not be a necessary party but a proper party to the suit. Her rights are required to be determined in the litigation. It has been noticed that the remaining defendants are members of the family, whereas, neither the petitioner nor Sh. Ishwar Sharma are members of the same family.

In view thereof, the order under challenge is set aside. The application filed by the petitioner is allowed. She is impleaded as defendant no.4.

The revision petition stands allowed.

All the pending miscellaneous applications, if any, are also disposed of.

July 14, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No