

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

CR-3448-2019 (O&M)

Date of decision: 08.09.2022

Sukhdev Singh and another

....Petitioners

Versus

Gurjit Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Gupta, Advocate for the petitioners

Mr. Nikhil Batta, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

Sh.Manish Kumar Singhi was undisputed owner of the property. Two different suits were filed for grant of relief of specific performance of the agreement to sell against Sh.Manish Kumar Singhi. One suit was filed by Sh.Gurjeet Singh s/o Inder Singh (respondent herein), which was decreed ex parte on 13.03.2014. The second suit was filed by Sh.Sukhdev Singh and Sh.Deepak Bhandari, which was decreed on 28.01.2015. The suit property in both the suits is common. The petitioners have filed a suit for declaration that the judgment and decree in 'Gurjeet Singh vs. Muneesh Kumar' bearing suit no. 798-T of 30.01.2008 decided on 13.03.2014 is illegal, null and void being a result of fraud. The defendant, while filing the written statement, has claimed that Sh.Manish Kumar Singhi is a necessary party. Application filed by the plaintiff under Order VI Rule 17 read with Order I Rule 10 of the Code of Civil Procedure, 1908, has been dismissed. The court has held Sh.Manish Kumar Singhi is not a necessary party and the trial of the suit has already commenced.

In the application for permission to amend the plaint, the plaintiff has alleged that the alleged agreement to sell executed by Sh.Manish Kumar Singhi in favour of Sh.Gurjeet Singh, in fact, a fabricated document and it is result of conspiracy between the various persons.

In the facts of the case, the trial court has erred in dismissing the application. Sh.Manish Kumar Singhi being the undisputed owner was required to be impleaded. As per the stand of the defendant, Sh.Manish Kumar Singhi is a necessary party. The prayer for amendment is confined to the various grounds on which the judgment and decree dated 13.03.2014 is being challenged. Hence, the order under challenge is set aside. The application filed by the plaintiffs shall stand allowed.

The petition stands disposed of accordingly.

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

08.09.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE