

120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3547-2022
Decided on : 01.09.2022

Sanjay Kumar @ Sanjay Goel

..... Petitioner

Versus

Krishan Kumar and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Abhinav Aggarwal, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Present petition has been filed under Article 227 r/w Section 151 CPC for setting aside the order dated 05.08.2022 (Annexure P-5) passed by Addl. Civil Judge (Sr. Divn.) Karnal vide which application under Order 1 Rule 10 and Order 6 Rule 17 r/w Section 151 CPC filed by the petitioner was dismissed with cost.

Learned counsel for the petitioner submits that the impugned order suffers from material irregularity and is contrary to the established principles of law. He submits that the trial Court failed to appreciate that the amendments sought by the petitioner in his plaint was material for a just adjudication of the dispute since respondents No.1 and 2 had sold the property in question after the institution of the instant suit to Omwati, Prem Chand Sharma and Kitabo Devi vide separate sale deeds. He further submits that though an application dated 24.11.2008 under Order 1 Rule 10 CPC for impleading the said Omwati was filed by the petitioner on similar

grounds, however, the application was still pending as no order had been passed in it. He still further submits that the subsequent purchasers were necessary parties and thus, the trial Court erred in dismissing the application of the petitioner.

Heard learned counsel and perused the relevant material available on record.

The relevant extract of the application dated 09.03.2021 filed by the petitioner is reproduced as under:

“2. That during the pendency of the litigation between the parties, the defendants No.1 and 2 sold the suit property to Smt. Omwati wife of Janeshar son of Ratan Lal resident of Gali No.8, Ashok Nagar, Meerut Road, Karnal vide registered sale deed No.3348/1 dated 25.07.2008 and sale deed No.7889/1 dated 16.01.2009 in favour of Kitabo Devi wife of Suresh Pal Sandhu son of Iqbal Sandhu resident of house No.172 Galli No.20-B, Karan Vihar Colony, Karnal and sale deed No.7890/1 dated 16.01.2009 in favour of Prem Chand Sharma son of Neki Ram Sharma son of Telu Ram Sharma resident of house No.1697 Galli No.4, Ashok Nagar, Meerut Road, Karnal and the details of the purchasers, their parentage and addresses were not disclosed by them in their written statement, but while tendering the evidence, the defendants disclosed the facts of above said sales with the names of purchasers.”

From the bare perusal of the above coupled with the fact that the petitioner moved an application under Order 1 Rule 10 CPC for impleading Omwati as a party on 24.11.2008, it is amply clear that the petitioner was well aware about the sale of the suit property, however, for

reasons best known to him, he chose not to press the same during the pendency of the case. Still further, once the petitioner had knowledge qua the execution and registration of the sale deeds after the written statement had been filed by the respondents, the petitioner should have been diligent enough to seek amendment of his plaint at that stage or definitely within a reasonable time thereafter. It is evident that the petitioner in the circumstances did not act with due diligence. The application under Order 1 Rule 10 CPC and Order 6 Rule 17 CPC r/w Section 151 CPC has been moved at a point when the trial is nearing conclusion. The suit was filed on 30.09.2008. If the amendment of the plaint as well as impleadment of the parties is allowed, it would without a doubt lead to de novo trial, which cannot be permitted at this stage, more so, when the trial has been pending for the last almost 14 years. There has to be an end to the litigation and the respondents cannot be permitted to suffer on account of the lackadaisical behaviour of the petitioner.

This Court has no hesitation in observing that the impugned order does not suffer from any illegality or material irregularity rather it comes across as a very well reasoned order, which does not warrant any interference from this Court.

As a sequel to above, instant petition being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

01.09.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No