S. No.110

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.5117 of 2022
Date of Decision:12.12.2022

Ravinder Kaur **.....Petitioner**

Vs.

Narpinder Pal Singh and others **.....Respondents**

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Munish Gupta, Advocate for the petitioner.

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DEEPAK GUPTA, J.

This revision is against order dated 08.07.2022 (Annexure P.10), whereby learned Civil Judge (Junior Division), Patiala has dismissed the application under Order 1 Rule 10 CPC of the petitioner seeking her impleadment in a petition under Section 144 of the Code of Civil Procedure.

2. As per the facts pleaded in the paper book, Suit No.40 of 1989 titled Surinderpal Singh and another Vs. Surjit Singh and others, for specific performance, based on agreement to sell dated 23.09.1979, with respect to 156 kanal 5 marlas of land, was decreed on 30.03.1989. Subsequently, defendants No.3 to 7 of that suit filed another suit so as to declare the decree dated 30.03.1989 passed in above-said Civil Suit No.40 of 1989 to be null and void. Said suit was dismissed by learned Civil Judge (Junior Division) Patiala vide judgment dated 20.09.2003. Appeal filed against the same was allowed by learned Additional District Judge, Patiala vide judgment dated 01.11.2004 (Annexure P.2), whereby Judgment dated 30.03.1989 was set

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aside and the trial Court was directed to start the further proceedings from the stage of taking of written statement. Trial began and ultimately, Civil Suit No.40 of 1989 was dismissed vide judgment dated 08.01.2009 (Annexure P.3). The same was unsuccessfully challenged by the plaintiffs of the case (now respondents No.4 and 5), as the appeal preferred by them was dismissed vide judgment and decree dated 31.03.2017.

3. It is contended that on account of respondents No.4 and 5 (plaintiffs of Civil Suit No.40 of 1989) having become owner of the suit property by virtue of decree dated 30.03.1989 (before it was set aside), they executed sale deed dated 20.07.1992 and 03.08.1992 in favour of Harbhajan Singh son of Jiwan Ram; and Kuldip Singh (respondents No.13 and 14). Said Kuldip Singh and Harbhajan Singh further sold their share by executing sale deed dated 27.04.1995 in favour of petitioner Ravinder Kaur. Copy of sale deed is Annexure P.6. Petitioner contends that ever since the date of sale deed dated 27.04.1995, she continues to be in possession as owner of the parcel of the land as purchased by her.

4. Since original decree for specific performance was set aside in the second round of litigation, the contesting defendants/ respondents instituted an application under Section 144 of the Code of Civil Procedure for restitution of possession. In that application, though Harbhajan Singh and Kuldip Singh i.e. Vendors of the petitioner have been impleaded as a party but the petitioner was not impleaded as such. She moved an application under Order 1 Rule 10 CPC for her impleadment in the proceedings but that application has been dismissed by the trial Court vide impugned order dated 08.07.2022.

5. It is contended by learned counsel for the petitioner that application under Order 1 Rule 10 CPC has been wrongly dismissed on the ground that earlier

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application moved by the petitioner during pendency of the suit was dismissed on 20.10.2008 and that rights of the petitioner were governed by the principles of lis-pendens and subject to the decision of the suit. It is contended that said observations of learned trial Court are not sustainable in law because the earlier order dated 20.10.2008 was passed, wherein petitioner along with Harbans Kaur had sought the impleadment. Besides, proceedings under Section 144 CPC are independent proceedings, wherein the contesting respondents are seeking the restitution of possession. It is also submitted that on one part of the land, Harbans Kaur and on another part of land, petitioner is in possession by virtue of purchase and though Harbans Kaur is impleaded as a party, but not the petitioner. Her rights are to be affected in case she is not impleaded.

6. Having considered the submissions of learned counsel for the petitioner and having gone through the paper book, I do not find any merit in the revision.

7. As noticed by learned trial Court that petitioner – Ravinder Kaur had earlier filed an application under Order 1 Rule 10 CPC along with one Harbans Kaur on 23.09.2008 in the main suit titled Surinderpal Singh Vs. Surjit Singh and others and that application was dismissed on 20.10.2008. It has been rightly observed by the learned trial Court that petitioner having purchased the land during pendency of the suit, so the principle of lis-pendens is applicable and she is bound by the decision of the suit. Her predecessors--in-interest, i.e. vendors have already been impleaded. Simply because Harbans Kaur, who along with petitioner, had also earlier moved an application under Order 1 Rule 10 CPC which was dismissed in 2008, has been impleaded as respondent in this case, cannot be a ground to implead the petitioner as such. The petitioner is bound by

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the final decision of the suit. As such, I find no illegality or perversity in the impugned order.

Dismissed.

December 12, 2022 **(DEEPAK GUPTA)**
renu **JUDGE**

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No

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