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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****C.R NO. 8022 OF 2018 (O&M)
DATE OF DECISION: 01.05.2023****Vikrant Bhopal****...Petitioner****Versus****Harbhajan Singh Johal and others****...Respondents****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Pawan Kumar, Senior Advocate with
Ms. Vidhushi Kumar, Advocate with
Mr. Ravinder Chaudhary, Advocate,
For the petitioner.

Ms. Amarjot Kaur, Advocate for
Mr. B, S. Bhalla, Advocate,
For respondent No.1.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for setting-aside order dated 03.11.2018 (Annexure P-4) passed by learned Civil Judge (Junior Division), Phillaur, District Jalandhar, whereby application filed by petitioner under Order 1 Rule 10 CPC for being impleaded as party-defendant, was dismissed.

2. Succinct facts first, as pleaded in the instant petition.

2.1. Plaintiff/respondent No.1 has filed a suit for declaration to the effect that he is owner to the extent of 05 Marlas out of land measuring 1 Kanal 2 Marlas and is in joint possession along with defendants (respondents No.2 to 4 herein) of entire land comprised in Khasra No.38//20/4 total measuring 1 Kanal 2 Marlas, as per jamabandi for the year 2007-08 situated at village Jandiala, Tehsil Phillaur, District

Jalandhar. Further declaration sought is that sale deed dated 22.03.1995 executed by Joginder Singh in favour of defendants is null and void and does not affect the rights of plaintiff over the suit property and mutation entered and sanctioned on the basis of sale deed 22.03.1995, are liable to be set-aside. Prayer in plaint is also for permanent injunction restraining defendants from alienating, transferring, mortgaging or creating any charge over the property in any manner more than their share in entire property and in the alternative, for joint possession of suit land.

2.3. Petitioner filed application under Order 1 Rule 10 CPC for impleading him as party-defendant stating that he is *bona fide* purchaser of the property vide title deed bearing No.258 dated 14.05.2014. He purchased said property from Paramjit Singh Johal. He has got right, title and interest in the property in question.

2.4. Defendants filed reply dated 04.12.2017 (Annexure P-3) to the aforesaid application and admitted that defendants through their duly appointed attorney, namely, Paramjit Singh had executed one sale deed dated 14.05.2014 in favour of petitioner Vikrant Bhopal and stated that they have no objection if the application was allowed.

2.5. Plaintiff/respondent no.1 filed reply opposing the application and the learned trial court dismissed the same vide order impugned herein.

3. Learned senior counsel for petitioner submits that application has been dismissed on the ground that applicant/petitioner herein could not place on record copy of sale deed, therefore, he is not a necessary party. There is only one sale deed i.e. dated 14.05.2014 which includes 5 Marlas land, as claimed by plaintiff out of the said sale deed, which was before learned trial Court and there is no separate sale deed.

3.1. Learned senior would further contend that the other ground that applicant/ petitioner had since purchased the share from its earlier owner Paramjit Singh vide sale deed dated 14.05.2014, pleaded to be nullified vide judgment/decreed dated 18.08.2017 (Annexure P-5) by a competent Court has not been properly dealt with.

3.2. He argues that in the earlier suit leading to aforesaid judgment and decree dated 18.08.2017, plaintiff specifically pleaded that he had purchased $\frac{3}{4}$ share in Khasra No.38//20/4 (1-2). He submits that remaining share i.e., $\frac{1}{4}$ in the aforesaid Khasra Number i.e. 5 Marlas, was purchased by petitioner. Thus, admittedly petitioner has become co-sharer and in the earlier decree in which petitioner was not made party, cannot be binding on him.

4. On the other hand, learned counsel appearing on behalf of respondent No.1/plaintiff opposes the prayer made and submits that learned Court below has rightly dismissed the application of petitioner.

5. I have heard learned counsels for parties and have gone through the records.

5.1 The impugned order is premised inter alia on the following reasons:

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4. The Court has considered the rival arguments and file is perused. Though the present suit, plaintiff is claiming for declaration to be owner of 5 marla out of suit property measuring 1 Kanal 2 Marla of Khasra No.38/20/4. On the other hand, applicant is claiming to purchase 16 Marla out of said property on the basis of sale deed dated 14.05.2014 executed by Paramjit Singh Johal being earlier owner. So even if considering applicant to purchase such share, although applicant could not place on record copy of alleged sale deed, it shows that applicant is not necessary party to the present suit. Even otherwise, applicant is claiming to purchase such share from earlier owner Paramjit Singh being attorney holder of Ranbir Singh vide sale deed dated

14.05.2014 which is pleaded to be nullified by the Court of Sh. Akbar Khan and there is no counter to this fact. It simply shows that applicant has admitted that such sale deed is already declared null and how on the basis of said sale deed, applicant can claim himself to be necessary party. Rather he is absolutely having no locus to file application like present one in these circumstances. So finding no merits in the application same stands dismissed. The case is adjourned to 15.11.2018 for defendant evidence, subject to last opportunity.

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5.2 In my opinion, the learned trial Court has given cogent and convincing reasons for the view taken in the case. I am inclined to agree with the same.

6. Petitioner herein claims himself to be *bona fide* purchaser of the suit property being vendee of defendants, who sold the same through power of attorney holder Paramjit Singh Johal, claiming themselves to be sole owners of the property. Vendors of the petitioner have already been arrayed as parties.

7. Sale deed dated 14.05.2014 set up by the petitioner is prior to the filing of the suit (No. CS/209215) giving rise to this petition. Plaintiff has neither challenged the said sale deed nor claimed any relief against the petitioner herein. The latter's vendors are already the defendants in the case. The plaintiff being the *dominus litis*, cannot be compelled to implead the petitioner, against whom he does not claim any relief. If the petitioner's vendors (defendants in the case) succeed in the *lis* and prove their title, the sale deed dated 14.05.2014 in favour of the petitioner's would remain protected. Otherwise, in case the plaintiff's suit is decreed, he himself runs the risk and will face the consequences of not impleading the petitioner and challenging the sale deed dated 14.05.2014 in his favour.

8. No ground for interference is made out.
9. Dismissed.
10. Pending application(s), if any, shall also stand disposed of.

MAY 01, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No