

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

106

CR-8152-2017

Date of Decision:25.08.2023

Kulwant Singh

....Petitioner

Versus

Balbir Singh

...Respondent

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Kanhiya Soni, Advocate
for the petitioner.

Mr. Divanshu Jain, Advocate
for the respondent.

SANJAY VASHISTH, J.(Oral)

1. Present revision petition has been filed by the plaintiff/petitioner against the order dated 31.08.2017 passed by learned Civil Judge (Junior Division), Patiala, whereby the application moved by the plaintiff/petitioner under Order I Rule 10 CPC for impleading Kuldeep Singh Sandhu and Charanjit Kaur as party/defendants to the civil suit was dismissed.

2. Learned counsel for the petitioner submits that after institution of the civil suit by the plaintiff on 17/18.11.2015, one of the property belonging to the defendant was transferred in favour of Kuldeep Singh Sandhu s/o Ruldu Singh Sandhu vide sale deed **Vasika No. 7695** dated **07.12.2015**, and another property was transferred in

favour of Charanjit Kaur w/o Charanjit Singh vide sale deed **Vasika No. 2081** dated **10.05.2016**. Petitioner/plaintiff claims that execution of the said sale deeds is nothing, but sham transactions.

3. However, Learned counsel for the respondent submits that learned trial Court after considering all the aspects, has observed that there is no material available on record to hold that execution of sale deeds is nothing but sham transactions.

4. Learned counsel for the respondent further contends that petitioner/plaintiff filed a suit for recovery of an amount of Rs.13,50,000/- on the basis of two dishonoured cheques issued by the defendant, in favour of the plaintiff. Admittedly, both the proposed defendants are neither the signatories to the cheques in question; nor involved in any manner in the money transactions as pleaded in the plaint by the plaintiff. He further contends that in other words, both of them, to whom plaintiff wants to implead as defendants are strangers to the transaction, which even took place, prior to the filing of the civil suit. Merely because proposed defendants purchased the properties, they cannot be dragged to the proceedings of the pending civil suit.

Moreover, there is no dispute over the fact that the properties sold out to the proposed defendants was owned by the defendant and he was entitled to transfer the same to anyone by way of sale. It is a well settled law that every person, who is a lawful owner of the property, is free to sell out the same, until there is some

restrain order by the Court or charge of some third party. Reliance is placed upon the judgment of Hon'ble Apex Court titled as of **Kasturi Vs. Iyyamperumal and others 2005(2) R.C.R. (Civil) 691; Law Finder Doc Id # 82744.** For the sake of convenience, the relevant paragraph of the judgment reads as under:

'12. From the aforesaid discussion, it is pellucid that necessary parties are those persons in whose absence no decree can be passed by the Court or that there must be a right to some relief against some party in respect of the controversy involved in the proceedings and proper parties are those whose presence before the Court would be necessary in order to enable the Court effectually and completely to adjudicate upon the settle all the questions involved in the suit although no relief in the suit was claimed against such person.'

5. In view of the above, **this Court does not find any infirmity in the order dated 31.08.2017 passed by learned trial Court, thus, present revision petition stands dismissed.**

**[SANJAY VASHISTH]
JUDGE**

August 25, 2023
rashmi

Whether speaking/reasoned
Whether reportable?

Yes/no
Yes/no