

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

CR No.3261 of 2023 (O&M)

Date of Decision: 10.10.2023

Sushil Kumar

..... Petitioner

Versus

Lachi Ram and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Balraj Gujjar, Advocate for the petitioner.

Mr. Sanjiv Kumar Aggarwal, Advocate &
Mr. Ojas Bansal, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

1. The petitioner herein is the defendant in a plaintiff's pending suit for grant of decree of specific performance of the contract, which was instituted on 30.08.2017. The suit is based on an agreement to sell dated 29.07.1989 in respect of land measuring 06 kanal. The defendant contested the suit but never disclosed that he has already transferred the property in favour of his brother Sushil Kumar vide transfer deed dated 24.05.2017. However, when defendant entered the witness box to depose, he for the first time disclosed that he has transferred the property in favour of his brother. At that stage, the plaintiff filed an application under Order 6 Rule 17, Order 1 Rule 10 and Section 151 Code of Civil Procedure, 1908 for permission to amend the plaint and implead Sushil Kumar, brother of defendant No.1, as a party to the suit. The trial Court allowed the application. The correctness of the same has been challenged in the present revision petition.

2. On one hand, learned counsel representing the petitioner contends that the suit filed by the plaintiff is beyond the prescribed time

and the plaintiff has now changed the nature of the suit.

3. Learned counsel representing the respondent (plaintiff) submits that the defendant did not disclose in the written statement about the transfer and as and when it was disclosed, immediately an application was filed.

4. This Court has considered the submission with regard to objection regarding limitation, the matter can be examined by the trial Court at an appropriate stage. In this revision petition, the order permitting the plaintiff to amend the plaint and implead the transferee has been allowed.

5. With reference to the second argument, it may be noticed that the transfer of the property adversely impacts the rights of the plaintiff as and when this fact was disclosed by defendant, the application was filed.

6. Keeping in view the aforesaid facts, no ground to interfere is made out.

7. Hence, the petition is dismissed.

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

10.10.2023
Deepak Patwal

(ANIL KSHETARPAL)
JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No