IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

137 **2023:PHHC:091103**

CR-3573-2023
Date of decision: 19.07.2023

SURENDER @ SUNDER SINGH **..Petitioner**

Versus

VIRENDER SINGH AND ANOTHER **..Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.K. Girdhwal, Advocate
for the petitioner.

Mr. Ravinder Rana, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

Respondent No.1 Sh. Virender Singh was the owner of the property. Respondent No.2-Sh. Rinku filed a suit for specific performance of the agreement to sell against Sh. Virender. Similarly, with respect to the same property, Sh. Surender (petitioner herein) also filed a separate suit. The suit filed by Sh. Rinku was decreed against Sh. Virender Singh. The aforesaid decree has become final. In the aforesaid decree Sh. Surender was not a party. In an execution petition, Sh. Surender filed objection petition, which has been dismissed by the Executing Court. This Revision Petition has been filed to challenge its correctness.

The learned counsel representing the parties are *ad idem* that Sh. Surender as well as Sh. Rinku have filed two applications for impleading Sh. Rinku as party in the pending suit filed by Sh. Surender.

Sh. Surender claims that the agreement to sell executed by Sh. Virender in favour of Sh. Rinku is the result of collusion between them. He further submits that initially in the suit for specific performance filed by Sh. Rinku, Sh. Virender did not contest the suit which resulted in the decree.

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authenticity of this order/judgment.

Although, Sh. Surender had filed the suit prior in time.

In these circumstances, the crucial issue which would require adjudication is "whether the agreement to sell in favour of Sh. Rinku and the suit filed by Sh. Rinku was genuine or not?". This matter can be better adjudicated in a separate suit, which is already pending. In an execution petition, the scope of inquiry is limited particularly when the decree is only for specific performance of the agreement to sell. The judgment passed in favour of Sh. Rinku is not biding on Sh. Surender because he was not a party.

Keeping in view the aforesaid facts, the revision petition is disposed of by directing the trial Court to implead Sh. Rinku as a party respondent in the suit filed by Sh. Surender and, thereafter, decide the same independently without being influenced by the decree passed in favour of Sh. Rinku.

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

July 19th, 2023 **(ANIL KSHETARPAL)**
Ay **JUDGE**

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

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