

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

134 (01)

CR-5634-2023

Decided on : September 25, 2023

Kulwant Singh

..... Petitioner

Versus

Ajay Nagar

..... Respondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Bharat Bhushan Sharma, Advocate
for the petitioner.

NAMIT KUMAR, J. (Oral)

1. The petitioner has approached this Court through the instant Revision Petition under Article 227 of the Constitution of India impugning the order dated 31.08.2023 (Annexure P-5) passed by the court of learned Addl. Civil Judge (Sr. Divn.), Palwal, vide which the application filed by the petitioner/defendant under Order 1 Rule 10 of CPC for impleading the State of Haryana through Collector Palwal as defendant no.2 and Competent Authority-cum-District Revenue Officer / Land Acquisition Collector, Palwal as defendant no.3 has been dismissed.

2. Brief facts relevant for disposal of the present Revision Petition are that the respondent/plaintiff had filed a civil suit for possession by way of specific performance of contract and permanent injunction as consequential relief before the court of learned Addl. Civil Judge (Sr. Divn.), Palwal stating therein that the defendant is the owner in possession of the agricultural land situated within the revenue estate of village Bagpul Kalan, Tehsil and District Palwal bearing

Khewat/Khatoni No.204 /240, Rect. No.17, Killa No.9/1/1 (3-11), 12/2 (5-15), 13

(8-0) total measuring 17 Kanal 06 Marlas, to the extent of 140/346th share which comes to 7 Kanal 00 Marlas, and Khewat/Khatoni no.201/238 Rect. No.17, Killa No.23 (8-0) and Khewat / Khatoni No.203/239, Rect No.17, Killa No.5/1 (0-12), 22/1(4-11), 24/1 (5-10), measuring 10 Kanal 13 Marla, which comes to total land measuring 20 Kanal 13 Marla, and he had entered into an agreement/contract with the respondent/plaintiff on 03.02.2021 to sell the land at a total consideration of Rs.1,23,90,000/- and out of said amount part payment of Rs.15,00,000/- was paid through RTGS on 01.02.2021 and it was agreed to execute the sale deed on 03.08.2022 and the remaining sale price was to be paid before the Sub Registrar at the time of registration.

2. The respondent/plaintiff has alleged in his suit that he was ready to execute the sale deed but the petitioner/defendant did not agree to part with the same and therefore he had to file the suit. In the Written Statement, which was filed on behalf of the defendant, it was denied that the plaintiff was ready to perform his duty, as he did not turn up on 03.08.2021 for executing the sale deed before the office of Sub Registrar. It was also denied that the possession of the suit land was handed over to the plaintiff by the defendant. It was also stated in the written statement that the agreement cannot be enforced because some part of land was acquired by the Government of Haryana through the Competent Authority-cum-District Revenue Officer / Land Acquisition Collector, Palwal for the purpose of construction of Greenfield Connectivity to Jewar International Air Port from DND-Fardibad-Ballabgarh Bypass KNP-Lincs Square to Delhi Mumbai Expressway. Thereafter the defendant/petitioner filed an application under Order 1 Rule 10 CPC for impleading the State of Haryana through Collector Palwal and the Competent Authority-cum-District Revenue Officer / Land Acquisition Collector, Palwal as defendants no.2 and 3, respectively. The said application was

contested by the respondent/plaintiff by filing the reply on 15.04.2023 and vide impugned order dated 31.08.2023, passed by the court of learned Addl. Civil Judge (Sr. Division), Palwal, the said application has been dismissed by recording the following findings:-

“ Merely because some part of the suit land has been acquired by the State, it can not be held that State is necessary party to the present suit. Rather, the contract became incapable of specific performance qua the land acquired by the State. Merely because the subject matter of the suit itself ceased to be available by the acquisition of land, plaintiff's right do not get extinguished in totality if he proves his case by leading cogent and convincing evidence rather he can mould the relief suitably which the circumstances of the case may require or permit.

As the present suit has been filed seeking relief of specific performance qua the land which is subject matter of the suit, part of which, has been acquired by the State, therefore, the Court can not grant specific performance of agreement to sell for the entire suit land even if plaintiff successfully proves his case as it has become incapable of specific performance. As the relief of specific performance qua the acquired land can not be granted, hence, the plaintiff can not seek relief in the present suit against proposed defendants no.2 and 3. ”

4. Learned counsel for the petitioner submits that some part of the land has been acquired by the Government and therefore, they are required to be made necessary party. However, he has not been able to convince this Court as to how these two authorities i.e. State of Haryana through Collector Palwal and the Competent Authority-cum-District Revenue Officer / Land Acquisition Collector, Palwal are necessary parties in a civil suit for specific performance of the agreement to sell in question, so this Court is of the considered opinion that the impugned order passed by the Court below is quite detailed and well-reasoned

and does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

7. Finding no merit in the revision petition, the same is dismissed.

September 25, 2023
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(NAMIT KUMAR)
JUDGE

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