

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

**CR No.5714 of 2022
Date of Decision: 04.01.2023**

Hardeep Singh

...Petitioner

Versus

Harjinder Singh and others

...Respondents

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Sachin Ohri, Advocate
for the petitioner.

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MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the order dated 05.11.2022 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division), Amritsar (for short 'the trial Court'), whereby the application (Annexure P-2) moved by the petitioner-applicant (here-in-after to be referred as 'the applicant') under Order 1 Rule 10 read with Section 151 CPC for being impleaded as defendant No.9 in the Civil Suit, filed by respondent No.1-plaintiff (for short 'the plaintiff') against respondents No.2 to 8-defendants (here-in-after to be referred as 'the defendants'), has been dismissed, he (applicant) has preferred the instant revision petition.

2. Bereft of unnecessary details, the facts, culminating in the filing of this revision petition, are that the plaintiff filed a Civil Suit against the defendants for seeking a decree for declaration to the effect that the sale-deed dated 09.02.2012 executed by one Gurbax Singh in respect of the

suit property was illegal, null and void, while further praying for the grant of permanent injunction to restrain the defendants from dispossessing him from the said property and also for the relief of mandatory injunction, by directing them (defendants) to remove the super structure existing in the same and also the '*malba*' (debris/rubble) from there. The applicant moved the above-referred application, pleading therein that he had purchased the suit property from defendant Bikramjit Singh vide the sale-deed executed on 13.12.2013 and registered on 16.12.2013 and is a *bona-fide* purchaser of the same and is in possession thereof as its owner and thus, he is an interested and necessary party to the said Suit. This application has been dismissed by the trial Court vide the impugned order.

3. I have heard learned counsel for the petitioner-applicant in the present revision petition, at the preliminary stage and have also perused the file carefully.

4. Learned counsel for the applicant has contended that the applicant has purchased the suit property vide the afore-mentioned sale-deed for consideration and thus, he is a *bona-fide* purchaser having right, title and interest in the same and therefore, he is a necessary party to the Civil Suit and as soon as he came to know about the pendency thereof, he immediately moved the above-said application for being impleaded as the defendant in the same but however, the trial Court has wrongly dismissed his application vide the impugned order and hence, the same is not legally sustainable at all and deserves to be set-aside. To buttress his contentions, he has placed reliance upon the verdict, as rendered by the Apex Court in

Thomson Press (India) Limited Versus Nanak Builders and Investors Private Limited and others, (2013) 5 Supreme Court Cases 397.

5. However, the afore-raised contentions are devoid of any merit because the trial Court has categorically mentioned in Para No.8 in the impugned order (Annexure P-1) that the said Civil Suit was instituted on 11.09.2012 and the injunction application had been allowed on 10.05.2013 whereas the applicant got the sale-deed executed/registered by defendant No.8 in his favour on 16.12.2013, i.e during the pendency of the said Suit. In these circumstances, Section 52 of the Transfer of Property Act becomes applicable to the above-mentioned sale transaction. To add to it, on being posed a query, during the course of arguments, regarding the status of the proceedings in the said Suit, learned counsel for the applicant has informed this Court that the trial Court had already partly heard the arguments in the said Civil Suit, meaning thereby that the same has almost reached the final stage of its decision/adjudication.

6. Further, it is pertinent to point it out here that the applicant has only submitted the reply, filed by defendants No.7 & 8 to his afore-said application, as Annexure P-3 and he has not placed the reply, as filed by the plaintiff to this application, on the record for the reasons best known to him but however, in Para No.3 in the impugned order, the trial Court has specifically mentioned that the plaintiff filed his reply to contest the said application by pleading therein that the applicant was already a party, as respondent No.5, in the Contempt Petition filed by him (plaintiff) on 24.03.2013, i.e even prior to the alleged execution of the said sale deed in

his (applicant's) favour on 12/16.12.2013. This fact unequivocally leads to an irresistible inference to the effect that the applicant was quite well aware of the pendency of the said Suit even at the time of purchasing the suit property but he moved the above-mentioned application at the stage of the hearing of the arguments in the Suit, as has also been pointed out in Para No.8 of the impugned order. It being so, his (applicant's) plea qua his having come to know about the pendency of the Suit just before filing the said application, stands belied/falsified. In such circumstances, the filing of the application under reference at the fag end of the trial in the Suit, seems to be nothing else but a ploy to delay and prolong the decision of the same.

7. The observations, as made by Hon'ble the Supreme Court in **Thomson Press (India) Limited (supra)**, to the effect that "*the transferee/purchaser pendente-lite may be impleaded in the pending suit for specific performance of the prior agreement to sell/contract for sale (CSF) filed by the buyer under the said CFS against the original owner/transferor/seller*", are not of much avail to the petitioner in view of the verdict rendered by the Apex Court subsequently in **Gurmit Singh Bhatia Versus Kiran Kant Robinson and others, 2020(13) SCC 773** while observing that "*the plaintiff cannot be forced to add the parties against whom, he does not want to fight and the subsequent vendee cannot be added as a necessary party in the suit for specific performance between the vendor and the original vendee*".

7. In view of the afore-discussed facts and circumstances, this Court is of the considered opinion that that the impugned order does not

suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the present revision petition, being *sans* any merit, stands dismissed.

04th January, 2023
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes