

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

**CR-1887 of 2018 (O&M)
Date of Order: 29.08.2023**

Poonam Kaushik**.Petitioner****Versus****Sunil Kumar and others****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Sandeep Verma, Advocate
for the petitioner.**

**Mr. R.S.Dadwal, Advocate
for respondent no.1.**

**Mr. Harish Bhardwaj, Advocate
for respondent no.2.**

ANIL KSHETARPAL, J

1. The petitioner (applicant) filed an application under Order 1 Rule 10 CPC with a prayer to implead her as a defendant in a pending suit filed by Sh. Sunil Kumar (the plaintiff).

2. In the suit, Sh. Sunil Kumar has prayed for the grant of decree of declaration that the sale deed executed by Sh. Naresh, respondent no.4, in favour of Smt. Anju (respondent 2) is illegal. Further sale deed executed by Smt. Anju in favour of Smt. Anita Devi (respondent no.3) is also challenged by Sh. Sunil Kumar. The suit was filed on 04.03.2014, whereas Smt. Anita Devi sold 17 kanals 13 marlas of land by registered sale deed dated 27.03.2014 in favour of the petitioner (Smt. Poonam Kaushik). Her application has been dismissed on the ground that copy of the sale deed was not produced and the issues were framed on 20.04.2015 but the application was filed on 12.04.2016.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

4. The learned counsel representing the petitioner submits that the copy of the registered sale deed dated 27.03.2014 has already been produced before this court and the petitioner filed the application immediately on coming to know of the pendency of the suit. She submits that the sale deed executed by Smt. Anju in favour of her predecessor-in-interest is subject matter of the challenge in the suit and therefore, the petitioner is a necessary party.

5. On the other hand, the learned counsel representing the respondents submit that the sale deed in favour of the petitioner is governed by the rule of lis pendens because the sale deed is executed during the pendency of the suit.

6. This court has considered the submissions while analyzing the arguments of the learned counsel representing the parties.

7. The petitioner herein claims right, title or interest in the property on the basis of registered sale deed executed by Smt. Anita Devi. In the suit, her rights with regard to the ownership of the property are to be adjudicated. Moreover, there is assignment of rights by respondent no.3 in favour of the petitioner during the pendency of the suit. Order XXII Rule 10 CPC permit the purchaser to get his name substituted in place of his or her vendor.

8. In the considered view of the court, interest of justice would not only be met but even the rights of all the parties shall be comprehensively decided if the applicant is impleaded as defendant. Reliance in this regard can be placed on the judgment passed by the Supreme Court in Thomson

Press (India) Ltd. vs. Nanak Builders & Investors (P) Ltd., (2013) 5 SCC 397 and **Robin Ramjibhai Patel vs. Anandibhai Rama @ Rajaram Pawar and others , 2017(1) RCR (Civil), 170.** The suit is pending before the court of first instance. There is no material to prove that the petitioner had the knowledge of pendency of the suit before she filed an application on 12.04.2016.

9. Keeping in view the aforesaid facts, the revision petition is allowed. The order dated 30.01.2018 is set aside. The application filed by the petitioner shall stand allowed.

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

August 29, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO