

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

133

CR-323-2023 (O&M)
Date of decision: 08.11.2024

RAKESH KAPIL

..Petitioner

Versus

M/S ADYA BUILDTECH PVT. LTD. AND ANR ..Respondents

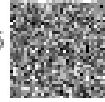
CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhinav Gupta, Advocate
for the petitioner.

Mr. Abhishek Jindal, Advocate
Mr. Mithun, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, the petitioner assails the correctness of trial Court's order passed on 05.12.2022, while dismissing his application under Order I Rule 10(2) of the Code of Civil Procedure, 1908, with a prayer to implead him as one of the defendant in Civil Suit No.1234 of 2022.
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
3. M/s Adya Buildtech Pvt. Ltd. was the registered owner of building built upon plot No.A-737, located in Block-A, Shushant Lok Phase-1. Vide registered sale deed dated 11.02.2022, M/s Adya Buildtech Pvt. Ltd. sold the property in favour of Sh. Manish Kumar Pandey. Subsequently, Sh. Manish Kumar Pandey entered into an agreement to sell with the petitioner on 02.03.2022 to sell 4th floor of the premises on receipt of Rs.2,65,00,000/- out of total sale consideration of Rs.3,12,50,000/-. The possession of the 4th floor was also delivered to the petitioner. Subsequently, Sh. Manish Kumar



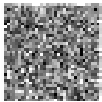
Pandey's wife lodged an FIR complaining that her husband has gone missing. At that stage, M/s Adya Buildtech Pvt. Ltd. filed a civil suit for declaration and cancellation of sale deed against Sh. Manish Kumar Pandey on the ground that the cheque for payment of part of the sale consideration was dishonoured. In that suit, the petitioner filed an application, which was dismissed.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. Learned counsel for the petitioner submits that the rights of petitioner will be prejudiced if he is not permitted to defend the suit. He submits that petitioner has already parted with substantial sum of Rs.2,65,00,000/- in favour of Sh. Manish Kumar Pandey who is missing. Subsequently, Sh. Manish Kumar Pandey has been proceeded against ex parte in this suit.

6. Per contra, learned counsel for respondent submits that the application cannot be allowed because there is no privity of contract between the petitioner and M/s Adya Buildtech Pvt. Ltd.. The petitioner has independent right against Mr. Manish Kumar Pandey. The relief, the applicant is claiming through application cannot be granted to him in this suit and he is stranger to the transaction between M/s Adya Buildtech Pvt. Ltd. and Sh. Manish Kumar Pandey. He further submits that M/s Adya Buildtech Pvt. Ltd. has already filed an independent civil suit for getting possession against the petitioner.

7. This Court has considered the submissions of learned counsel for the parties.



9. The petitioner does not claim any privity of contract with M/s Adya Buildtech Pvt. Ltd., however, there is a registered sale deed executed by M/s Adya Buildtech Pvt. Ltd. in favour of Sh. Manish Kumar Pandey, who in turn executed agreement to sell in favour of the petitioner. Thus, the petitioner has substantial interest with respect to the property. Hence, there is no requirement of any privity of contract between M/s Adya Buildtech Pvt. Ltd. and the petitioner. The petitioner has only filed an application under Order I Rule 10 Code of Civil Procedure, 1908. He should be allowed to contest the suit because it is ultimately going to adversely impact his rights if the suit is to be decreed. In this suit, the applicant is not entitled to make any independent claim unless he files counter claim, however, he is entitled to watch his interest and protect his possession particularly when Sh. Manish Kumar Pandey has been proceeded against ex parte.

10. Moreover, M/s Adya Buildtech Pvt. Ltd. has already filed suit for possession against the petitioner. Thus, the possession of the petitioner is admitted by M/s Adya Buildtech Pvt. Ltd.

11. Keeping in view the aforesaid facts, the revision petition is allowed. The impugned order is set aside and the application filed by the petitioner is allowed. The Court may examine the feasibility of requesting the District Judge to club both the suits in order to have uniformity of the decision.

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

November 08th, 2024

(ANIL KSHETARPAL)
JUDGE

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