

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****221-1****CR No.3826 of 2016 (O&M)****Reserved on : 08.05.2024****Date of Decision : 13.05.2024**

Baljinder Singh and Others

....Petitioners

VERSUS

Singheshwar Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sapan Dhir, Advocate for the petitioners.

Mr. Gaurav Chopra, Senior Advocate with
Mr. Arnav Singh and Mr. Akshat Dalal, Advocates
for respondent Nos.1 to 3.

Mr. Pawan Kumar, Senior Advocate with
Ms. Vidhushi Kumar, Advocate for respondent Nos.4 and 5.

ALKA SARIN, J. (Oral)

1. The present revision petition has been preferred by the defendant-petitioners under Article 227 of the Constitution of India challenging the order dated 15.12.2015 vide which the application under Order I Rule 1 of the Code of Civil Procedure, 1908 for impleading Singheshwar Singh, Vikramaditya Singh and M.K. Jain as plaintiffs has been allowed.

2. The brief facts relevant to the present case are that the plaintiff-respondent Nos.4 and 5 herein filed a suit for declaration to the effect that plaintiff-respondent No.4 is the owner in possession of land measuring 238 Kanals 10 Marlas in Khata No.1-2-36 situated in Village Beer Ferozari, H.B. No.364, Tehsil and District Panchkula as per Jamabandi for the year 2008-09 on the basis of an agreement to sell dated 01.09.2003 executed between



plaintiff-respondent No.4 and the defendant-petitioners and further for challenging the cancellation of GPAs dated 19.01.2004 and 07.06.2006 and further for permanent injunction. The defendant-petitioners filed a written statement contesting the suit. In August 2014 the respondent Nos.1 to 3 herein filed an application under Order I Rule 1 CPC for being impleaded as plaintiffs on the ground that Gurpreet Kaur (defendant-petitioner No.3 herein) had also entered into an agreement to sell with them in pursuance of which the stamp papers were purchased and sale deed was also prepared. It was further averred that the Sub Registrar returned the deed on the ground that Collector Agrarian, Panchkula had passed a status quo order dated 18.09.2003 due to which the sale deed could not be registered. It was also averred that the respondent Nos.1 to 3 had filed CWP-3595-2005 and CWP-16072-2005 against the decision of the Sub-Registrar. They claimed themselves to be the bonafide purchasers and having a vested interest in the suit property and had a right to join as plaintiffs. The said application was contested by the defendant-petitioners inter-alia on the grounds of concealment and misrepresentation. It was denied that the defendant-petitioners had entered into any agreement with the respondent Nos.1 to 3. It was also stated that CWP-3595-2005 and CWP-16072-2005 had not been filed by the respondent Nos.1 to 3 but infact were filed by the plaintiff-respondent Nos.4 and 5. Vide the impugned order dated 15.12.2015 the said application was allowed. Hence, the present revision petition.

3. At the outset, it may be noticed that senior counsel appearing on behalf of the plaintiff-respondent Nos.4 and 5 has stated that they have no objection, being *dominus litis*, if respondent Nos.1 to 3 are impleaded as party.



4. Learned counsel for the defendant-petitioners would contend that a stranger or a third party to a contract is not entitled to be added as a party in a suit. In support of his arguments he has relied upon judgments of the Hon'ble Supreme Court in the cases of **Kasturi vs. Iyyamperumal & Ors. [2005(6) SCC 733]**, **Bharat Karsondas Thakkar vs. M/s Kiran Construction Co. & Ors. [2008(3) RCR (Civil) 57]** and that of this Court in the cases of **Baljit Kaur & Ors. vs. State of Punjab & Ors. [2015(8) RCR (Civil) 714]** and **Ankush Anand vs. Ram Kishan Singh & Anr. [2021(1) RCR (Civil) 271]**.

5. *Per contra* learned senior counsel appearing on behalf of respondent Nos.1 to 3 has contended that if at all there can be any objection to them being added as a party then it would be by the plaintiff-respondent Nos.4 and 5, who are *dominus litis*, and the plaintiff-respondent Nos.4 and 5 herein have no objection to respondent Nos.1 to 3 being impleaded as a party. It is submitted that the Trial Court while deciding the application had felt it necessary to implead the said persons as parties to the suit in order to effectively and completely adjudicate and settle all questions and if at all anybody could have a grievance it would be the plaintiff-respondent Nos.4 and 5 and that respondent Nos.1 to 3 are also claiming a right over the same property. Learned senior counsel has relied upon a judgment of the Hon'ble Supreme Court in the case of **Prem Lala Nahata & Anr. vs. Chandi Prasad Sikaria [2007(1) RCR (Civil) 870]**.

6. It is well settled that it is for the plaintiff in a suit to identify the parties against whom he has any grievance and to implead them as defendants. A person against whom a plaintiff has no grievance has no role as a defendant in a suit. Where, however, a third party may suffer any



grievance on account of the outcome of the suit, he shall be entitled to get himself impleaded. Whether a person is a proper or a necessary party to a suit depends on the relief claimed in the suit and the right or interest of the third person involved. It needs to be mentioned here that even without an application to be impleaded as a party, the Court may, at any stage of the proceedings, order that the name of any party who ought to have been joined, whether as plaintiff or defendant or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

7. A necessary party is one without whom, no order can be made effectively, a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding. (**Udit Narain Singh Malpaharia vs. Additional Member Board of Revenue, Bihar & Anr. [AIR 1963 SC 786]**).

8. In the present case the application filed by the respondent Nos.1 to 3 for being impleaded as plaintiffs lacks material particulars and reasons. Though it was averred that Gurpreet Kaur (defendant-petitioner No.3 herein) had also entered into an agreement to sell with the respondent Nos.1 to 3, there is no date forthcoming of the alleged agreement to sell. There is also no specific averment that the alleged agreement to sell related to the same land qua which the suit had been filed by the plaintiff-respondent Nos.4 and 5. Though it was averred that the respondent Nos.1 to 3 had purchased stamp papers and sale deed was also prepared, again no dates are forthcoming in the application. There is nothing in the application which connects the respondent Nos.1 to 3 with the suit land. When details which may link the



respondent Nos.1 to 3 with the suit land or may show them to have some nexus with the already litigating parties are not forthcoming, they (respondent Nos.1 to 3) cannot be said to be proper or necessary parties to the suit. The Trial Court did not examine these aspects while deciding the application and allowed the same by simply holding that *“It is settled law that the court may add any person as party at any stage of the proceedings if the person whose presence before the court is necessary in order to enable the court to effectively and completely adjudicate upon and settle all questions involved in the suit, also to prevent multiplicity of the proceedings. Further, in the instant case the applicants seek to be impleaded as plaintiffs on the ground that they had entered into an agreement to sell with defendant Gurpreet Kaur, the sub- registrar refused to register the sale deed on the ground of status quo order passed by Collector, Agrarian, Panchkula. Further, the applicants claim relief pertaining to the effect of the present case which if not allowed would lead to multiplicity of suit. Further, it is a matter of evidence if as to the applicants have concealed any facts, as such the applicants have undertaken to provide the documents relied upon by them subsequently. So, keeping in mind the aforesaid discussion the present application is allowed and the applicants are impleaded as plaintiff”*. The Trial Court merely reproduced the contents of the application and allowed the same. Though the plaintiff-respondent Nos.4 and 5 have taken a stand that they being *dominus litis* have no objection to the impleadment application being allowed, a party having no relationship with the dispute cannot be made a plaintiff merely because the original plaintiff has no objection. The principle of *dominus litis* cannot be over-stretched and an interloper or meddler cannot be made a party just because the plaintiff is the



master of his suit. It is well settled that it is open to the Court to add any such person as necessary party in the suit to enable the Court to effectively adjudicate the question involved in the suit. However, for exercise of power under this rule the Court has to first come to a finding that the party is a necessary or proper party. All and sundry cannot be made parties to a suit.

9. Even if one were to accept that Gurpreet Kaur (defendant-petitioner No.3 herein) had also entered into an agreement to sell with the respondent Nos.1 to 3, the respondent Nos.1 to 3 would have a separate cause of action which cannot be clubbed with the cause of action of the original plaintiff-respondent Nos.4 and 5 so as to allow them to be impleaded as plaintiffs in the original suit.

10. The decision in **Prem Lala Nahata** (supra) cited by learned counsel for the respondent Nos.1 to 3 is distinguishable as the said decision came on a case arising from proceedings under Order 7 Rule 11 CPC as to whether a suit could be held to be barred on account of misjoinder of parties.

11. The impugned order is patently erroneous and not sustainable. In view of the discussion above, the present revision petition is allowed and the impugned order dated 15.12.2015 is set aside. The application filed by the respondent Nos.1 to 3 for being impleaded as plaintiffs is dismissed. Pending applications, if any, also stand disposed off.

13.05.2024

jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO