



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

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**CR-3984-2024 (O&M)
Date of Decision.:18.07.2024**

Gupreet Singh and Others

.....Petitioners

Vs.

Dharam Singh and Others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. A.P.S. Mann, Advocate
for the petitioners.

DEEPAK GUPTA, J. (ORAL)

By way of this revision, petitioners have assailed the order dated 29.05.2014 passed by learned Additional Civil Judge (Senior Division), Samana, District Patiala, whereby the second application moved by the plaintiff (respondent No.1 herein) under Order 6 Rule 17 CPC to amend the plaint, has been allowed.

2. Perusal of the paper-book would reveal that plaintiff (respondent No.1 herein) filed a suit for recovery for an amount of ₹20,18,750/- i.e. ₹12,50,000/- as earnest money and ₹7,68,750/- as damages, against defendant Nos.1 & 2 (respondent Nos.2 & 3 herein) who only were initially impleaded and who had allegedly failed to execute the sale deed pursuant to the agreement to sell dated 04.07.2011 regarding suit property in favour of the plaintiff.

3. During pendency of the suit, the initially impleaded defendant Nos.1 & 2 sold the suit land to Shamsheer Kaur (respondent No.4 herein).

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The said Shamsher Kaur was permitted to be impleaded as party to the suit by way of order dated 11.03.2019 passed by this Court in CR-9014-2017 (Annexure P-3). The written statement filed by this newly added defendant No.3 Shamsher Kaur revealed that she had further transferred the suit property in favour of Gurpreet Singh, Gurdeep Singh and Amar Singh (present petitioners) by virtue of sale deed dated 17.03.2017. Alleging that said transfer had been made during the pendency of the suit with *mala fide* intention, plaintiff moved an application under Order 1 Rule 10 CPC to implead them as a party. That application was allowed by the trial Court on 28.10.2022 vide order Annexure P-6 and subsequent transferees were impleaded as defendant Nos.4 to 6. Later on, plaintiff moved an application under Order 6 Rule 17 CPC for amendment of the plaint so as to challenge the transfer deeds in favour of newly impleaded defendant Nos.4 to 6 i.e. the petitioners. That application has been allowed by way of impugned order dated 29.05.2024.

4. Assailing the aforesaid order, it is contended by learned counsel that during pendency of the suit, an application under Section 151 CPC was moved for directing the plaintiff to get the sale deed executed in terms of the agreement dated 04.07.2011 but plaintiff did not agree for the same and in these circumstances, trial Court observed in its order dated 21.03.2015 (Annexure P-2) that whether plaintiff is entitled for the recovery could not be decided at this stage. Learned counsel contends further that once it was found that plaintiff was not ready and willing to get the sale deed executed, the subsequent sale transactions in favour of the petitioners are not hit by

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principle of lis pendens and therefore, the permission to amend the plaint so as to challenge the sale transaction in favour of the petitioners has been wrongly allowed.

5. There is no merit in the aforesaid contention. It is not in dispute that sale deeds in favour of the petitioners have been executed by defendant No.3 in their favour during pendency of the suit. Even if plaintiff has not shown his willingness to get the sale deed executed and has sought the recovery but in case his suit is decreed, the suit property remains a charge so as to recover the amount.

6. In these circumstances, no fault can be found with impugned order, in case plaintiff has been allowed to challenge the subsequent sale deed in favour of petitioners. Rather it is in the interest of the defendants-petitioners to be impleaded as a party so as to protect their rights, in case they are *bona fide* purchasers and in case they feel that principle of lis pendens is not applicable to the case as is pleaded by them. Although it is not clear from the impugned order as to whether issues have been framed or not and whether the trial has commenced or not but this issue has not been raised by counsel for the petitioners.

Finding no merit in the petition, same is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

July 18, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No