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

(246)

CR-6226-2019

Date of decision: - 02.08.2024

Jagtar Singh

....Petitioner

Versus

Darshan Singh (since deceased) through his LR's and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rakesh Gupta, Advocate,
Mr. Prince Goyal, Advocate, and
Mr. Hitesh Kalra, Advocate
for the petitioner.

Mr. Vijay Lath, Advocate
for respondent Nos.1(b) and 2.

None for respondents No.3 and 4.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 17.08.2019 (Annexure P-1) passed by the Civil Judge (Senior Division), Rupnagar, whereby an application dated 06.08.2019 (Annexure P-2) filed by the petitioner for impleading Sukhbir Singh son of Bahadur Singh as party in the present suit in the array of defendants has been dismissed.

2. Learned counsel for the petitioner has submitted that the petitioner had filed a suit for possession by way of specific performance

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directing respondent No.1 to execute the sale deed of total land measuring 161 kanal 1 marla comprising in khatoni/khasra number, which has been detailed in the headnote of the plaint. It is submitted that in the said suit, initially three defendants i.e. Darshan Singh, Nachhattar Kaur and Avtar Singh were impleaded and the said Darshan Singh had died and his LRs were impleaded as party. It is stated that when the case was still pending for plaintiffs evidence, the petitioner had moved an application dated 06.08.2019 (Annexure P-2) under Order 1 Rule 10 CPC for impleading Sukhbir Singh son of Bahadur Singh as party, on the plea, that it had come to the notice of the petitioner that the said Sukhbir Singh had acquired the suit land and his name was found in the revenue record and that he was claiming to be the owner of the suit land on the basis of the alleged compromise, which had been effected without the knowledge of the petitioner. It is argued that since the said Sukhbir Singh was shown to be the owner of the suit land, thus, he would be a necessary party for the purpose of proper and final adjudication of the case and for passing an effective decree. It is further argued that the trial Court has dismissed the said application by passing an illegal order which is perverse and against law. It is stated that the primary reason given by the trial Court is that a perusal of the judgment dated 29.04.2014, which was passed in RSA-1653 of 2008 titled as 'Darshan Singh Vs. Sukhbir Singh and others', shows that the khasra numbers of the property mentioned in the said compromise were different from the property in the present suit. It is submitted that a comparison of the property in the said judgment dated

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29.04.2014 with the present suit land shows that almost the entire property is the same. It is argued that at any rate, the said Sukhbir Singh is a co-sharer in the property. It is further argued that since the petitioner was not a party to the said compromise, thus, the question of him disclosing the date and month of the compromise, as has been observed in the impugned order, is also not relevant and that at any rate, the factum of the said compromise has been mentioned in the order dated 29.04.2014, passed in RSA No.1653 of 2008 between Darshan Singh and Sukhbir Singh and others. It is stated that since it is the petitioner's suit for possession by way of specific performance, thus, the delay, if any, caused on account of the said impleadment would only delay the adjudication of the suit filed by the present petitioner and no prejudice would be caused to the defendants.

3. Learned counsel appearing for respondents No.1(b) and 2 has opposed the present revision petition and has submitted that the suit land which is the subject matter of the said RSA is not the same as the suit land in the present case and thus, the impugned order has been rightly passed. It is submitted that the said Sukhbir Singh is not a necessary party and the application filed by the petitioner deserves to be dismissed.

4. This Court has heard learned counsel for the parties and has perused the paper-book.

5. It is the case of the petitioner that during the pendency of the suit, he had learnt that Sukhbir Singh had acquired the suit land and his name was found in the revenue record and the same was done by way of a

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compromise effected between defendant No.1 with Sukhbir Singh and on the basis of the said compromise, RSA No.1653 of 2008 had been disposed of vide order dated 29.04.2014. The application for impleadment of the said Sukhbir Singh (Annexure P-2) has been primarily rejected by the trial Court on the ground that the suit land which is the subject matter of the said RSA is not the same as the present suit land. A perusal of the impugned order would further show that the said observations had been made by the Civil Judge (Sr. Division), Rupnagar, on the basis of the order dated 29.04.2014 passed by the Hon'ble High Court in the abovesaid RSA as with respect to the compromise deed, it had been observed that the petitioner had not produced the copy of the same. A perusal of the application dated 06.08.2019 (Annexure P-2) would show that the petitioner had specifically averred in para 4 that Sukhbir Singh had acquired the suit land. In the reply filed to the said application on behalf of the defendants, the factum with respect to Sukhbir Singh acquiring the suit land is stated to be a matter on record. Para 4 of the application (Annexure P-2) and corresponding para 4 of the reply of the defendants to the said application are reproduced as under: -

*“4. That now it has come to the notice **that Sukhbir Singh had acquired the suit land and his name was found in the revenue record and now he is saying that he is absolute owner of the suit property.***

Reply to para 4 of the application (Annexure P-2)

4. That it is also a matter of record so far as the revenue record is concerned. Infact, the suit is not maintainable. The same has been filed on wrong facts.”

6. A perusal of the above would show that it has not been disputed by the defendants that the said Sukhbir Singh had acquired the suit land. Even a perusal of the suit land which was the subject matter of the abovesaid RSA, which has been reproduced in the opening para of the order dated 29.04.2014, when compared with the present suit land, would show that almost the entire suit land is the same. No document has been produced on behalf of the respondents to show that the present suit land is not the same as the land which was subject matter of the compromise deed or of the regular second appeal. Thus, the said reason for rejecting the application filed under Order 1 Rule 10 CPC is found to be perverse.

7. As has been stated hereinabove, the present suit has been filed by the petitioner for possession by way of specific performance. It is the case of the petitioner that the case is pending for plaintiffs' evidence, which fact could not be disputed by the learned counsel for respondents. The delay, if any, caused on account of the application being allowed would only delay the adjudication of the suit of the petitioner.

8. On the basis of the above-said facts and circumstances, this Court has come to the conclusion that Sukhbir Singh son of Bahadur Singh is a necessary party and the application which has been filed for impleadment of the said Sukhbir Singh is meritorious and would fall within the parameters of Order 1 Rule 10, sub-clause (2) of CPC and his impleadment would help the Court to properly and finally adjudicate the matter and would avoid multiplicity of litigation and would further enable the Court to pass an effective decree, in case, the pleas of the petitioner

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are accepted.

9. Keeping in view the above-said facts and circumstances, the present civil revision petition is allowed and the impugned order dated 17.08.2019 (Annexure P-1) is set aside and the application dated 06.08.2019 (Annexure P-2) filed by the petitioner under Order 1 Rule 10 CPC is allowed and Sukhbir Singh son of Bahadur Singh son of Bakhtaur Singh, resident of village Ladhran, Tehsil Samrala, District Ludhiana, is ordered to be impleaded as defendant No.4 in the main suit.

August 02, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes