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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CR-7525-2024 (O&M)
Date of decision:10.01.2025

Rajnish Joshi

... Petitioner

Vs.

Vijay Kumari & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Baljinder Singh, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by the petitioner against the order dated 12.11.2024 (Annexure P-1) passed by learned District Judge, Hoshiarpur, whereby application under Order 1 Rule 10 CPC filed by the petitioner for impleadment as a party in the appeal as well in the suit, was dismissed.

2. The relevant facts required for disposal of the present revision petition are that the plaintiffs filed a suit for declaration to the effect that plaintiffs are exclusive owners in joint possession to the extent of 1/2 share each in land measuring 8 kanals 8 marlas as detailed in head note of the plaint being legal heirs of Smt. Parwati W/o late Sarwan Singh on the basis of valid registered Will dated 09.01.2006 and order passed by AC IInd Grade, Garhshankar of sanctioning of mutation No.23693 in favour of plaintiff No.1 and defendants in equal shares as per natural succession is wrong, illegal, null and void, having no effects on rights, title or interest of



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the plaintiffs and ineffective and inoperative and is liable to be set aside. This suit was contested by the defendants and the suit was dismissed on 15.09.2016. The appellants/plaintiffs preferred an appeal before the Appellate Court against the impugned judgment and decree dated 15.09.2016. During pendency of the appeal before the Appellate Court, an application under Order 1 Rule 10 CPC read with Section 151 CPC was filed by the petitioner. It was alleged that Parwati Devi widow of Sarwan Singh was owner of property and after her death, mutation was sanctioned in favour of her legal heirs. Kamal Thakur S/o Parwati Devi executed an agreement to sell dated 02.03.2007 regarding land measuring 1 kanal 16 marlas situated at Garhshankar, District Hoshiarpur for an amount of Rs.2,25,000/- and he received entire sale consideration at the time of execution of the said agreement. It was stipulated in the agreement that applicant could get the sale deed executed as and when he required. Kamal Thakur also executed Power of Attorney dated 02.03.2007 in favour of applicant/petitioner. Kamal Thakur never disclosed to applicant/petitioner about the present suit. Kamal Thakur filed the present suit in connivance with Vijay Kumari, his sister and Ajay Kumar s/o Vijay Kumari on the basis of forged Will dated 09.01.2006. When he came to know about the present suit, the applicant was told that said suit would be got dismissed. Said suit was dismissed on 15.09.2016. About one month back, applicant came to know that Kamal Thakur had made statement in the Court admitting the claim of the plaintiff of the suit and also admitted the Will in favour of the plaintiff, which shows that Kamal Thakur is conniving with the plaintiff,



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after execution of the agreement to sell and execution of power of attorney and he intends to defeat rights of the applicant in connivance with his sister and her son. It was alleged that applicant is in possession of land measuring 1 kanal and 16 marlas and to that effect there is also recital in the agreement dated 02.03.2007. Thus, applicant is an interested party to the present suit to establish the collusion between the plaintiff and Kamal Thakur and Kamal Thakur intentionally is not contesting the case. The other respondents are also in collusion with the appellants, so it was requested that applicant be impleaded as a party in the present suit as well as in the appeal.

3. Notice of the said application was issued and it was resisted by the appellants as well as respondents by filing separate written replies. It was alleged that suit is earlier to the alleged agreement and Will in favour of appellants is a registered document which cannot be ante dated. It was further alleged that the present application has been filed due to collusion between the applicant and Kamal Thakur to intentionally prolong the pendency of the appeal by forging and fabricating agreement to sell and Power of Attorney. The said application under Order 1 Rule 10 CPC was dismissed by the Appellate Court vide order dated 12.11.2024. Hence feeling aggrieved of the said order, the applicant/petitioner has knocked the doors of this Court by way of filing the present revision petition.

4. It has been contended by learned counsel for the petitioner that on the basis of agreement to sell and Power of Attorney, petitioner along with other co-owners, namely Husan lal and Ved Kumari executed sale deed dated 24.09.2010 in favour of Janak Singh s/o Dharam Singh for a portion of

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property measuring 7 marlas 6 sarsahis out of khasra No.39//16/2 (4-14) which made the said vendee Janak Singh the owner of that portion of suit property. He further contended that having sold the property, Janak Singh has a direct and substantial interest in ensuring that rights of his vendee are protected and any adverse determination regarding inheritance of Parwati Devi would inevitably affect the title derived by Janak Singh. In the present suit, inheritance of Parwati Devi is directly under challenge and decision of suit would directly affect the rights of vendee Janak Singh. So to effectively safeguard the interest of his vendee Janak Singh, the petitioner/applicant is necessary and proper party to the present lis. He has urged that while passing the impugned order, learned Appellate Court has ignored the principles embodied in Order 22 Rule 10 CPC which contemplates that in cases of assignment, creation or devolution of interest during the pendency of the suit, the person deriving title or interest can be brought on record to avoid multiplicity of litigation and to ensure a comprehensive adjudication of the dispute and has prayed that the present application be allowed.

5. Perusal of the impugned order reveals that it has been observed therein that no ground is made out to implead the applicant as party in the suit as well as appeal on the basis of agreement to sell dated 02.03.2007, as it is well settled preposition of law that agreement to sell does not confer any title or interest in the property in favour of the proposed vendee. It has been held that applicant on the basis of agreement to sell dated 02.03.2007 cannot be said to be transferee pendente lite and cannot be impleaded under Order 22 Rule 10 CPC.



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6. From copy of application moved under Order 1 Rule 10 CPC that has been placed on record, as well from the impugned order, it emerges that no such plea, as has been raised now by counsel for the petitioners that he on the basis of said agreement to sell and general Power of Attorney, along with other co-owners, namely, Husan Lal and Ved Kumari executed sale deed dated 24.09.2010 in favour of Janak Singh s/o Dharam Singh, was ever taken. No such sale deed was alleged to have been executed by the petitioner/applicant in favour of Janak Singh regarding part of the suit property. When no such plea has been taken earlier that petitioner has a direct and substantial interest in safeguarding the rights of his vendee Janak Singh and only agreement to sell dated 02.03.2007 has been alleged to be executed, before the District Judge, then there is no illegality or infirmity in the impugned order which calls for any interference.

7. In the light of the above, the impugned order is well reasoned order and does not suffer from any illegality or perversity.

8. Dismissed.

9. Pending application(s), if any, shall also stand disposed of.

**(SUKHVINDER KAUR)
JUDGE**

10.01.2025
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |