

Present:- Vs. Vikram Singh and Others

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Court : Punjab and Haryana

Decided On : Jul-03-2014

Appellant : Present:-

Respondent : Vikram Singh and Others

Judgement :

C.R.No.4259 OF2014-1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH C.R.No.4259 OF2014 Date of decision: 03.07.2014 Sukh DeviPetitioner Versus Vikram Singh and othersRespondents CORAM: HON'BLE Mr.JUSTICE RAJIV NARAIN RAINA Present:- Mr.Swaran Tiwana, Advocate for the petitioner.

---- RAJIV NARAIN RAINA, J.

(Oral) If the plaintiff's application for amending his plaint and for introducing Sukh Devi as a party defendant under Order 1 Rule 10 CPC was declined by the trial Court, is no reason to decline the request of Sukh Devi, petitioner, claiming independently under Order 1 Rule 10 CPC.

The petitioner filed an application for impleading her as a party on the ground that she is a bona fide purchaser for valuable consideration of a part of the disputed property with an abiding interest in the result of the suit.

The Learned Additional Civil Judge (Sr.Division).Gurdaspur, vide impugned order dated 20.05.2014 has fallen in factual error in assuming that the earlier application

was filed by the applicant 'himself' and since that application of the respondent-plaintiff was declined vide order dated 31.03.2014 she was precluded from approaching the Court independently.

The learned trial Judge assumes that the only remedy for the petitioner herein was to file a review petition in the High Court against the order passed in the plaintiff's application praying for impleading Sukh Devi.

Such an assumption is legally erroneous and reflects doubt on the judicial thinking of the trial Judge.

Besides, in reply of the application, the plaintiff Sharma Jyoti 2014.07.05 10:26 I attest to the accuracy and integrity of this document Chandigarh C.R.No.4259 OF2014-2- had raised no objection if the application under Order 1 Rule 10 CPC were allowed.

The trial Court has not said that the application preferred by the petitioner was collusive in nature.

Even if it were even then the petitioner had an independent right of consideration on her application under Order 1 Rule 10 CPC.

Instead of examining her right the petitioner has been shown the door of the revisional Court to question the previous order passed in the application filed by the plaintiff to which she was not a party.

Consequently, the impugned order is found not sustainable in the eyes of law.

The petition is accepted and the impugned order is set aside.

The petitioner is impleaded as a defendant in the suit.

However, she will make no claim beyond that of the vendor.

She can be seen only to step into his shoes to protect and guard her personal interest as a bona fide purchaser for valuable consideration claiming protection of Section 41 of the Transfer of Property Act, 1887 and as is permissible in law.

Since the plaintiff has not contested the application before the trial court and on the other hand asked for the same relief it would have no right to be heard before this Court in the passing of this order.

03.07.2014 (RAJIV NARAIN RAINA) Jyoti 1 JUDGE Sharma Jyoti 2014.07.05
10:26 I attest to the accuracy and integrity of this document Chandigarh

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