

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

Civil Revision No.790 of 2022

Date of Decision: 21-04-2022

Sukhmeet Kaur & Another

...Revisionists-Petitioners

Versus

Harjinder Singh & Others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Deepak Verma, Advocate,
for the revisionists-petitioners.

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MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the order dated 08.02.2022 (Annexure P-10) passed by the Civil Judge (Junior Division) Garhshankar (for short 'the trial Court') whereby the application moved by respondent No.1- Harjinder Singh (for short 'the applicant') under Order 1 Rule 10 CPC for being impleaded as a defendant in the Civil Suit preferred by the petitioners-plaintiffs (for short 'the plaintiffs') against respondents No.2 & 3-defendants No.1 and 2 (for short 'defendants No.1 & 2') and defendant No.3 (stated to have since expired) has been allowed, the plaintiffs have chosen to prefer the instant revision petition.

Bereft of unnecessary details, the facts leading to the filing of this petition, are that the plaintiffs filed the above-said Civil Suit against defendants No.1 & 2 as well as defendant No.3-Harmohinder Singh for seeking a decree for permanent injunction to restrain defendants No.1 & 2

from interfering in their lawful and peaceful possession over the suit properties, while averring that deceased-defendant No.3 was the father of plaintiff No.1 and defendants No.1 & 2 and he had inducted them (plaintiffs) as the permanent licensees in the said properties and defendants No.1 & 2 had no concern with the same but they threatened to dispossess them from these properties forcibly and illegally. In their written-statement, defendants No.1 & 2 asserted that their mother Resham Kaur had purchased the property, mentioned in the Head Note 'B' of the plaint, from one Avtar Singh and she, then, sold it to defendant No.1 and her husband vide the Sale Deed dated 19.12.2005 and handed over its possession to them. Defendant No.1 further sold the said property to Harjinder Singh, i.e the applicant, vide the Sale Deed dated 13.12.2017 and since then, he was in possession thereof as its owner. The above-named vendee moved an application for being impleaded as the defendant in the Civil Suit, while claiming himself to be in possession over this property as its owner by virtue of the said sale deed and the same has been allowed vide the impugned order.

I have heard learned counsel for the petitioners-plaintiffs in the present revision petition and have also perused the file carefully.

Learned counsel for the petitioners-plaintiffs has contended that the plaintiffs have filed the Civil Suit for seeking the relief of permanent injunction against defendants No.1 & 2 only and they, being the *dominus litis*, had every right to seek such relief against anyone as they deemed appropriate and they could not be compelled to implead any third person as the defendant in the Suit. To buttress his contentions, he

has placed reliance upon the observations made by Hon'ble Supreme Court in **Mohamed Hussain Gulam Ali Shariff vs. Municipal Corporation of Greater Bombay & Ors. Civil Appeal No.12273 of 2016 (Arising out of SLP (C)No.35321 of 2016) Decided on 09.12.2016** and by this Court in **Amritsar Diocesan Trust Association (Regd.), Amritsar vs. Amritsar Diocesan Trust Association, Amritsar Civil Revision No.4015 of 1997 Decided on 07.07.1998; Nirmala Sharma and Others vs. Jagdish Lal and Others Civil Revision No.3548 of 2014 (O&M) Decided on 02.12.2014** and **Charanjit Singh vs. Harjit Kaur & Ors. Civil Revision No.830 of 2012 (O&M) Decided on 23.03.2015.**

However, the above-raised contentions are devoid of any merit because the applicant claims his possession over the property detailed in Head Note 'B' of the plaint as its owner, on the basis of the above-said sale deed as stated to have been executed by defendant No.1 in his favour. It being so, it is quite explicit that the adjudication of the dispute/controversy between the plaintiffs and defendants No.1 & 2 qua the right, title or interest in this property, would directly affect the rights of the applicant, who claims to have stepped into the shoes of vendor-defendant No.1, in respect of the same. In these circumstances, the applicant would be a necessary party to the said Civil Suit.

It has, recently, been held by the Apex Court in **Acqua Borewell Pvt. Ltd. Vs. Swayam Prabha & Others Civil Appeal Nos.6779-6780 of 2021** that "where the trial Court dismissed the injunction application and refused injunction by observing that some of the properties were evidently owned by the Firms/Trusts/Companies which

had not been made parties to the suit, the impugned common judgment and order passed by the High Court granting injunction with respect to 1/7th share in the total plaint schedule properties which had been passed without giving an opportunity of being heard to the appellants and without impleading them as party-defendants in the Suit by the learned trial Court, was unsustainable and deserved to be quashed and set aside.”

From the above-discussed observations, it becomes crystal clear that the parties having any right, title or interest in the disputed property are the necessary parties even for the purpose of granting/refusing the relief of injunction in a Suit and when tested on the touch-stone of these observations, the impugned order passed by the trial Court qua impleading the applicant as the defendant in the Civil Suit, has to be held to be perfectly legal.

The observations, as made by Hon’ble Supreme Court in **Mohamed Hussain Gulam Ali Shariff (supra)**, are of no avail to the plaintiffs because the facts and circumstances of the case in hand are distinguishable from those of the cited above as in the afore-said case, the appellant had filed the Civil Suit to challenge the notice issued by the respondent-Corporation and respondents No.2 & 3 moved an application for being impleaded in the said Civil Suit while averring that they had already filed a Suit for seeking specific performance of the Agreement in respect of the suit property, which was pending whereas in the instant case, the applicant claims to have purchased the suit property vide the said Sale Deed stated to have been executed by defendant No.1 in his favour and to have become its owner in possession. Further, the observations

made by this Court in **Amritsar Diocesan Trust Association (Regd.)**, **Amritsar (supra)**, **Nirmala Sharma and Others (supra)** and **Charanjit Singh (supra)**, will also be of no help to plaintiffs in the light of the above-quoted observations made by the Apex Court in **Acqua Borewell Pvt. Ltd. (supra)**.

As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the present revision petition, being *sans* any merit, stands dismissed.

21st April, 2022.
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable : No

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