

(1998) 03 P&H CK 0054

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Revision No. 3481 of 1991

Ram Pat

APPELLANT

Vs

Maha Singh

RESPONDENT

Date of Decision: March 5, 1998**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 1 Rule 10, 115

Citation: (1998) 4 CivCC 595 : (1998) 3 CivCC 93 : (1998) 119 PLR 312 : (1998) 3 RCR(Civil) 187**Hon'ble Judges:** Arun B. Saharya, C.J**Bench:** Single Bench**Advocate:** Jaswant Jain, for the Appellant; S.K. Mittal, for the Respondent**Final Decision:** Allowed

Judgement

Arun B. Saharya, C.J.

This is a revision petition u/s 115 of the Code of Civil Procedure. The petitioner has challenged order dated September 20, 1991, passed by the learned Additional Senior Sub Judge, Narnaul, in the course of proceedings in a suit filed by the petitioner against Maha Singh (respondent No. 1) for specific performance of an agreement to sell the land in dispute. By the impugned order, the trial Court has allowed the application filed by Mangat Singh (respondent No. 2) and allowed him to join as defendant No. 2 in the suit.

2. Mangat Singh is not a party to the agreement sought to be specifically enforced by Ram Singh in the suit property. The trial Court has allowed his application Under Order 1, Rule 10, CPC on the basis of judgment in the case of Gurdev Singh v. Param Ram 1985 P.L.J. 319.

3. The petitioner has challenged the impugned order on the ground that Mangat Singh is neither necessary nor proper party to the suit and that the judgment in the case of Gurdev Singh (supra) was overruled by a larger Bench of this Court in

4. The challenge raised in the revision petition is well founded. In a suit for specific performance of agreement to sell a property, a person who is not a party to the agreement is not entitled to be impleaded as a defendant. In such a suit, decree sought against the defendant is for the purpose of enforcement of the agreement inter se the executants. No relief is sought against any stranger to the agreement. The question involved in the suit does not relate to any rights or liabilities of others in the property in dispute. The decree, if granted, will bind only the parties to the agreement, namely, the plaintiff and the defendant, and would not affect the position of anyone else. Such a person is neither necessary nor property party to the suit.

5. Moreover the addition of Mangat Singh as defendant No. 2 will enlarge the scope of the suit, change its nature and turn it into a suit for title. This would be impermissible as it will prejudice fair trial of the suit for specific performance instituted by the plaintiff. The case is squarely covered by the judgment of a Division Bench of this Court in Krishan Lal and Ors. (supra) in which the judgment in Gurdev Singh (supra) was expressly overruled.

6. The impugned order is, therefore, set aside. The application of Mangat Singh (respondent No. 2) Under Order 1, Rule 10, Civil Procedure Code, is dismissed. Now, the suit shall proceed against Maha Singh (respondent No. 1) as the sole defendant. The parties shall appear before the trial Court for further, directions on April 20, 1998.

7. The revision petition is accordingly allowed. No costs.