Ramesh and Others Vs Balbir Singh and Others

C.R. No. 6559 of 2013

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Oct. 29, 2013

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: Saravjit Singh Khurana, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

this revision petition filed under Article 227 of the Constitution of India, challenge is to order dated 09.10.2013 (Annexure

P-2) passed by the trial court, thereby dismissing application filed by the petitioners under Order 1 Rule 10 of the CPC (in short - CPC) for

impleading them as party to the suit, which has been instituted by respondents no. 1 to 6 (who include legal representatives (LRs) of plaintiff no. 2)

against respondents no. 7 to 9. Petitioners alleged in their application that they have purchased part of the suit land from defendant no. 1 through

two sale deeds dated 16.07.1999 and third sale deed dated 21.07.1999. While purchasing the land, they were not aware of the pendency of the

instant suit.

2. Plaintiffs, by filing reply, opposed the application and pleaded that petitioners were aware of pendency of the suit when they purchased part of

the suit land during pendency of the suit. It was also alleged that petitioners purchased the suit property in violation of temporary injunction order

dated 15.06.1999, thereby restraining defendant no. 1 from alienating the suit land.

3. I have heard counsel for the petitioners and perused the case file.

4. Counsel for the petitioners reiterated the version of the petitioners, as pleaded in their application, as mentioned herein above.

5. I have carefully considered the matter.

6. The application filed by the petitioners was completely meritless and filed with mala fide intention and has, therefore, been rightly dismissed by

the trial court and consequently, the instant revision petition is also not only meritless, but is completely frivolous, and therefore, deserves to be

dismissed with very heavy costs so as to curb such frivolous litigation. The petitioners falsely pleaded in their application that they were not aware

of the pendency of the suit when they purchased part of the suit land from defendant no. 1. On the contrary, defendant no. 1 had given undertaking

(vide Annexure R-2 produced in the trial court) that he would compensate the petitioners with some other land if he failed in the suit.

Consequently, the petitioners were aware of pendency of the suit, when they purchased the suit land, but in spite thereof, they purchased it and

then falsely pleaded in the application that they were not aware of pendency of the suit.

7. Secondly, petitioners purchased part of the suit land in violation of temporary injunction order passed by the trial court in the suit.

8. Thirdly, application by the petitioners has been filed after delay of 14 years after they had purchased part of the suit land. There is no

explanation whatsoever for this long and inordinate delay in filing the application except that it demonstrates the mala fide intention of the

petitioners.

9. It may also be added that the application was also not filed under proper provision because the petitioners should have invoked Order 22 Rule

10 CPC instead of filing application under Order 1 Rule 10 CPC. Hon''ble Supreme Court has held in various judgments that transferee pendente

lite cannot be ordered to be impleaded as party to the suit under Order 1 Rule 10 CPC. However, wrong mentioning of provision can be ignored

but for other reasons, noticed hereinbefore, the petitioners cannot be ordered to be impleaded as party to the suit, which is pending for more than

14 years.

10. For the reasons aforesaid, I find that application filed by the petitioners has been rightly dismissed by the trial court. There is no perversity,

illegality or jurisdictional error in the impugned order of the trial court so as to warrant interference by this Court in exercise of power of

superintendence under Article 227 of the Constitution of India. As noticed hereinbefore, the revision petition is not only meritless, but is also

frivolous and deserves to be dismissed with exemplary cost to curb frivolous litigation. Accordingly, the revision petition is dismissed with costs of

Rs. 20,000/-, to be deposited by the petitioners with the Registry of this Court. If the cost amount is not deposited within one month, the case shall

be listed for this purpose.