

(2013) 08 P&H CK 0737

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 7324 of 2012

Hem Raj Sharma

APPELLANT

Vs

Palinderjit Singh and Others

RESPONDENT

Date of Decision: Aug. 8, 2013

Acts Referred:

- Constitution of India, 1950 - Article 227

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

Bench: Single Bench

Advocate: Amit Bhanot, for the Appellant; Vikram Preet Arora, Advocate for Respondent No. 1 and Mr. Krishan Sehajpal, Advocate for Proforma Respondents No. 2 and 3, for the Respondent

Final Decision: Allowed

Judgement

L.N. Mittal, J.

Plaintiff Hem Raj Sharma, aggrieved by order dated 3.11.2012 Annexure P/5 passed by the trial court thereby dismissing applications Annexure P/3 dated 16.8.2010 and Annexure P/4 dated 13.10.2010 filed by the plaintiff-petitioner for amendment of plaint has filed this revision petition under Article 227 of the Constitution of India to challenge the said order. Plaintiff-petitioner has filed suit against defendants/respondents for possession of suit property by specific performance of agreement to sell dated 4.7.2005 allegedly executed by defendant no. 1 in favour of the plaintiff. Defendants no. 2 and 3 were impleaded in the suit because part of the suit property was allegedly in their possession.

2. By way of amendment of plaint, plaintiff wants to plead that defendant no. 1 executed power of attorney dated 2.6.2010 in favour of Pommi Soni authorizing him to alienate the suit property on behalf of defendant no. 1 and accordingly, defendant no. 1 through the said attorney has sold suit property through three sale deeds dated 16.8.2010, 7.9.2010 and 15.9.2010. Accordingly, the aforesaid attorney

of defendant no. 1 as well as vendees of the aforesaid sale deeds are sought to be impleaded as defendant nos. 4 to 7 to the suit and the aforesaid power of attorney and sale deeds are also sought to be challenged.

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

4. Power of attorney was executed by defendant no. 1 in favour of Pommi Soni on 2.6.2010 during pendency of the suit and the plaintiff immediately filed application dated 16.8.2010 Annexure P/3 for amendment of plaint. Thereafter three sale deeds were executed by the attorney of defendant no. 1 on 16.8.2010, 7.9.2010 and 15.9.2010 necessitating the filing of the second application dated 13.10.2010 Annexure P/4. These amendment applications were necessitated due to aforesaid actions of defendant no. 1 and his attorney during pendency of the suit and therefore, there was no ground to reject the amendment applications. Impugned order passed by the trial court is patently perverse and illegal and suffers from jurisdictional error. Accordingly, the instant revision petition is allowed. Impugned order Annexure P/5 passed by the trial court is set aside. Applications Annexures P/3 and P/4 filed by the plaintiff for amendment of plaint are allowed and plaintiff is permitted to make proposed amendments in the plaint.