

(2014) 07 P&H CK 0634

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 4976 of 2014

Jagmohan Chauhan

APPELLANT

Vs

Sunder Lal Sharma

RESPONDENT

Date of Decision: July 31, 2014

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 1 Rule 10, Order 22 Rule 10

Citation: (2014) 176 PLR 781

Hon'ble Judges: Rakesh Kumar Jain, J

Bench: Single Bench

Advocate: Mahavir Sandhu, Advocate for the Appellant

Judgement

Rakesh Kumar Jain, J.

The plaintiff filed a suit for specific performance of the agreement to sell dated 28.04.2006 in respect of the land measuring 14 Kanal 12 Marlas. The suit was filed on 22.02.2007 and the written statement was filed on 29.05.2007. The original defendant, namely, Dev Darshan died thereafter and was represented through respondents No. 2 to 6 as his legal heirs, who sold the property in dispute to the present petitioner by way of two sale deeds dated 08.03.2013. The petitioner filed an application under Order 1 Rule 10 of CPC, allowed on 12.11.2013 with a rider that "the applicant is entitled to pursue the defenses already taken by the defendant No. 1 and not to set up a new case by reopening the present suit from its initial stage. In nutshell, the applicant is entitled to pursue the present case from existing stage." This order was not challenged by the petitioner by way of a revision or review and became final between the parties. Now the petitioner has filed an application for allowing him to file his own written statement after having been impleaded as defendant in the present suit, but the said application has been declined by the learned Trial Court vide the impugned order dated 10.07.2014. Counsel for the petitioner has vehemently argued that once the petitioner has been impleaded as a party by the order of the Court, he has a right to pursue his case as, according to

him, he has to take the plea of being a bona fide purchaser.

2. After hearing learned counsel for the petitioner and examining the record, I am of the considered opinion that in such a circumstance where a subsequent vendee is impleaded as a party on an application filed under Order 1 Rule 10 CPC, then he would have a right to file his written statement to contest the suit as held by the Supreme Court in the case of [Amit Kumar Shaw and Another Vs. Farida Khatoon and Another,](#) but where he is impleaded on an application filed under Order 22 Rule 10 of CPC merely for substitution of the erstwhile defendant who had sold the suit property to him during the pendency of the suit, he may not be allowed to file written statement and has to proceed from the stage from where he is so substituted. In the present case, however, the facts are altogether different because when the application filed by the petitioner under Order 1 Rule 10 of CPC was allowed by the Trial Court, a specific rider was added in that order that the petitioner would join the proceedings from the stage the application was allowed and would pursue the defenses already taken by defendant No. 1 and would not be allowed to set up a new case by reopening the present suit from its initial stage. The sum and substance of this order disentitle the petitioner from seeking permission of the Court to file the written statement because it would run contrary to that order. It would have been a different matter if the said order had been challenged by the petitioner by way of revision or review and the aforesaid condition is deleted, but in the presence of the said condition, the learned Trial Court has rightly passed the impugned order declining the prayer of the petitioner. In view thereof, I do not find any merit in the present revision petition and hence, the same is hereby dismissed.