

IN THE COURT OF SH. HASAN ANZAR, ADJ-06
WEST DISTRICT, TIS HAZARI COURTS

CS No. 13756/16

Shashi Dua

.....Plaintiff

Versus

Prabha Anand and ors.

.....Defendants

Date of Order: 07.09.2019.

ORDER

1. This order shall dispose of an application under Order 1 Rule 10 CPC filed by plaintiff seeking impleadment of Smt Shanti Dawar and Smt Guvleen Kaur Sethi as party defendant no.7 and 8 in the instant suit.

2. Plaintiff has filed suit for specific performance, declaration as well as for recovery of possession and mesne profit against defendants. It is pertinent to mention that defendant no.1 to 3 have filed a suit for possession against the present plaintiff and the said suit was consolidated with the present suit for specific performance.

3. The present application is based on the premise that defendant no.1 has sold a part of the first floor to Smt Charanjeet Kaur vide sale deed dated 14.06.2010 and Smt Charanjeet Kaur was impleaded as party defendant in the present case vide order dated 08.07.2013. However, Smt Charanjeet Kaur did not file any Written Statement before the court and

thereafter Smt Charanjeet Kaur/defendant no.6 has sold the first floor of the suit property to Shanti Dawar.

4. Prayer is also made in the application for adding Smt Guvleen Kaur Sethi as party defendant in the present case as defendant no.1 has sold the second floor of the suit property to Guvleen Kaur Sethi. It is also averred that the impleadment of defendant no.7 and 8 is necessary for just adjudication of the case.

5. Application was vehemently opposed by defendant no.1 to 3 who submitted that application is basically a dilatory tactics adopted by the plaintiff with a view to prolong the matter. It is also submitted that plaintiff was very much aware of the fact that Smt Charanjeet Kaur has sold the part of the suit property to Smt Shanti Dawar. It is also submitted that the application as filed by plaintiff is barred by limitation.

6. I have heard ld counsel for parties and perused the material available on record. I have also perused the written submissions filed by both the parties.

7. Plaintiff has filed suit for specific performance, declaration, recovery of possession and other relief against defendant and the said suit has been consolidated with the suit for recovery of possession filed by defendant no.1 to 3. Since the plaintiff seeks decree of specific performance against defendants. Section 19 of Specific Relief Act provides

that a decree of specific performance could be enforced against either party or any other party claiming a title under him arising subsequently to the contract except a transferee for value. Since in the present case, plaintiff seeks the enforcement of contract of specific performance and plaintiff being dominus litis has a right to implead such party to whom he seeks to enforce his/her right and the proposed defendants have derived title from the defendants and since the valuable rights of parties are to be determined, the defendants are necessary and proper party for the just adjudication of the dispute in between them. Although, the order for impleadment might cause some hardship to defendant no.1 to 3 however for the effective adjudication of the lis, their impleadment would be in just and proper disposal of the case.

8. In view of the above mentioned discussion, the application under Order 1 Rule 10 CPC filed by plaintiff is allowed. Smt Shanti Dawar and Guvleen Kaur Sethi are impleaded as party defendant no.7 and 8 in the present case. Amended memo of parties already filed, same is taken into record.

Announced in the Open Court
on 07.09.2019

(Hasan Anzar)
Additional District Judge-06
West District, THC