
available. The Labour Court and the learned Single Judge, in our view, were justified in presuming that the appearances made by the appellant before the Labour Court/Industrial Tribunals were not gratuitous or in other words, it could not be said that he was not earning anything during the relevant period

(10) Coming now to the facts of the case in Rajinder Kumar Kindra's case (*supra*), suffice it to say that the work therein was living with his father-in-law and helping him in the coal-depot. There was no evidence to show that the help given by the workman to his father-in-law was in lieu of pay or remuneration. At the most, the father-in-law, in turn, maintained the workman and his family. The plea raised by the management that workman being gainfully employed in such a situation, naturally had to meet with kind of observations by the Supreme Court, as have already been mentioned above.

(11) The facts of Om Parkash Goel's case (*supra*), rather than supporting the cause of appellant, in our view, would turn against him. The only difference in the said case and the one in hand is that whereas, in the former workman had started practising as a lawyer and in the latter workman represented the workers of various companies in Labour Courts/Industrial Tribunals as their authorised representative. This difference does not appear to be of much significance as the job carried out by both is same, even though field of their operation may be different.

(12) In view of the discussion made above, we find no merit in this appeal and dismiss the same, leaving however, the parties to bear their own costs.

S.C.K.

Before Iqbal Singh, J.

JAGMAIL SINGH.—*Petitioner*

versus

AMARJEET KAUR & OTHERS.—*Respondents*

C.R. No. 3990 of 1997

3rd November, 1999

Code of Civil Procedure, 1908—o.1 Rl. 10—Necessary party—Impleading of—Whether purchaser lis—pendente is a necessary party.

Held, that while deciding question of impleadment of a person as a party to the suit, whether such person who has applied for being

added as a party to the litigation pending between the parties is having direct interest in the matter or not. Admittedly, the petitioner purchased a part of the property in dispute during the pendency of the suit as a *bona fide* purchaser and thus by virtue thereof become owner of the said property. In my opinion, the petitioner has direct interest in the litigation and no harm would be done to the plaintiffs if the petitioner is allowed to be impleaded as party to the suit. The presence of the petitioner would rather help the court to arrive at a just conclusion and it will avoid further litigation between the parties.

(Para 7)

Harsh Aggarwal, Advocate *for the petitioner*

P.K. Gupta, Advocate, *for the respondents Nos. 1 and 2.*

JUDGMENT

Iqbal Singh, J.

(1) This revision petition is directed against the order dated 29th August, 1997 of the trial court whereby an application under order 1 Rule 10 of the Code of Civil Procedure moved by the petitioner-applicant for being impleaded as a party to the suit has been dismissed.

(2) Amarjeet Kaur and Sarjeet Kaur respondents 1 and 2 filed a suit for joint possession of the land detailed in the plaint. During the pendency of the suit, the petitioner moved the aforesaid application for impleading him as a party. It was stated that the applicant had purchased some land out of the suit land including share in the motor and electricity connection etc. for "consideration of Rs. 1,50,000 from Sharanjit Kaur, General Attorney of defendants Nos. 1 to 3. On the strength of registered sale deed dated 16th January, 1995, mutation No. 7610 was also sanctioned. The applicant was not aware of the litigation pending between the plaintiffs and the defendants. He purchased the land as a *bona fide* purchaser believing that the defendants were the absolute owners of the land who had inherited the estate of deceased Bhagwan Kaur widow of Inder Singh. It was also stated that the applicant is in peaceful possession of the land purchased by him out of the suit land and therefore, he is necessary party to the suit.

(3) The application was opposed by the plaintiffs by filling a reply. It was stated that the applicant had no locus standi to file the application and the same was not maintainable and was even time barred. It was further stated that the petitioner had stepped into the shoes of the vendor during the pendency of the litigation pending between the

parties to the suit and he had full knowledge of litigation as also of the decree passed in favour of the plaintiffs. The mutation was got sanctioned at the back of the plaintiffs when the warrants of possession were issued by the court in compliance of the decree passed. The applicant was well aware of this litigation and even then he purchased the property, with ulterior motive to defeat the legal rights of the plaintiffs.

(4) Learned trial court on a consideration of the matter came to the conclusion that keeping in view the basic law that any sale effected during the pendency of the suit is hit by the principles of lis-pendence, the presence of the present applicant is not at all necessary for proper adjudication of the controversy raised in the suit. The application, as noticed above, was consequently dismissed.

(5) I have heard learned counsel for the parties. Learned counsel for the petitioner submitted that the applicant is necessary party and he ought to have been impleaded as a respondent, as he purchased some property from out of the suit land as a *bona fide* purchaser, without knowledge of the litigation pending between the parties. In support of his submission, learned counsel relied upon *Savitri Devi vs. District Judge, Gorakhpur and others (1)* and *Khemchand Shankar Choudhari and another vs. Vishnu Hari Patil and others (2)*. Learned counsel for respondents Nos. 1 and 2, on the other hand, submitted that the petitioner is neither a necessary nor a proper party so as to render an effective and complete adjudication of the dispute involved in the suit. In support of this submission, learned counsel relied upon a judgment of the Supreme Court in *Anil Kumar Singh vs. Shivnath Mishra alias Gadasa Guru (3)*. After going through the above judgment, I am of the opinion that it is not helpful to the respondents as in that case a suit for specific performance of sale was filed by one Daulat Singh who died during the pendency of the suit and his son was brought on record as his legal representative. He filed an application under order 6 Rule 17 of the Code of Civil Procedure seeking leave to amend the plaint by impleading one Shivnath Mishra as party defendant in the suit, on the ground that vendor Shivnath had colluded with his sons and wife and had obtained a collusive decree, and thus, by operation of the said decree, they became co-sharers of the property conveyed under the agreement and therefore, Shivnath Mishra was necessary and proper party. The trial court dismissed the application and that order was upheld upto the apex court. The question in that suit for specific

(1) 1999 (2) Supreme Court Cases 577

(2) 1983 (1) Supreme Court Cases 18

(3) 1995 (1) Recent Revenue Reporter 660

performance was whether Shivnath Mishra, vendor had executed the document and whether the conditions prescribed in the provisions of the Specific Relief Act had been complied with for granting the relief of specific performance. In the instant case, however a suit was filed for joint possession of the land in dispute as owners and for correction of revenue record in the name of the plaintiffs by ignoring the revenue entries made on the basis of a will executed by Smt. Bhagwan Kaur in favour of defendants. It would thus be seen that the aforesaid judgment of the Supreme Court is distinguishable on facts and is not applicable to the facts and circumstances of the present case. Learned counsel for the respondents also relied upon another judgment of the Supreme Court in *Sarvinder Singh vs. Dalip Singh and others* (4). In that case a suit was filed by one Sarvinder Singh, for declaration that he is the owner of the property on the basis of a registered will executed by his mother, and a declaration to that effect had already been given by the civil court in another decree. The defendants in that suit alienated some property out of the suit land in favour of Dalip Singh and others and on the basis thereof, they sought to come on record as defendants under order 1 Rule 10 of the Code. Trial court dismissed the application. The High Court, however, directed their impleadment as defendants to the suit. The Supreme Court on a consideration of the matter, upset the order of the High Court and dismissed the application of Dalip Singh etc. for being impleaded as a party to the suit, by observing that the sale during the pendency of the suit was hit by the doctrine of lis pendens under section 52 of the Transfer of Property Act and no permission of Court was obtained before effecting sale of the property. It was in these circumstances, the prayer for being impleaded as a party to the suit was declined by the Supreme Court, whereas the facts of the present case, as noticed above, are quite different and therefore, this authority has no application to the present case. The facts in *Savitri Devi's case* (*supra*) relied upon by the learned counsel for the petitioners were similar to that of the present case and it is not necessary to notice them in extenso. In that case, it was held as under :—

“Order 1 Rule 10 CPC enables the court to add any person as a party at any stage of the proceedings if the person whose presence before the court is necessary in order to enable the court to effectively and completely adjudicate upon and settle all the questions involved in the suit. Avoidance of a multiplicity of proceedings is also one of the objects of the said provision in the Code.”

(6) In *Khemchand Shankar Chaudhary's case* (*supra*), it was held that a transferee pendente lite of an interest in an immovable

(4) 1997 (Suppl.) Civil Court Cases 50 (S.C.)

property, which is the subject-matter of a suit, is a representative-in-interest of the party from whom he has acquired that interest. In the present case also, if the petitioner is not allowed to be impleaded a party to the suit, he is likely to suffer on account of any order that may be passed in the suit because he having become owner of the property as a *bona fide* purchaser would be affected by the decision to be rendered in the suit. He, thus, has a right to be impleaded as a party to the proceedings and to be heard before any order is passed in the suit.

(7) No doubt a litigation is pending between the parties, but there is nothing on record which may suggest, even remotely, that the applicant was aware of the pendency of the said litigation and thus is not a *bona fide* purchaser without knowledge of the pendency of the dispute between Amarjeet Kaur and another, and Baldev Singh and others. Since a vital interest of the petitioner is involved as he has purchased land from out of the suit land and has become owner thereof, he is certainly a necessary party for proper adjudication of the dispute raised in the present suit. Above apart, it is also one of the foremost considerations before the court while deciding question of impleadment of a person as a party to the suit, whether such person who has applied for being added as a party to the litigation pending between the parties is having direct interest in the matter or not. Admittedly, the petitioner purchased a part of the property in dispute during the pendency of the suit as a *bona fide* purchaser and thus by virtue thereof became owner of the said property. In my opinion, the petitioner has direct interest in the litigation and no harm would be done to the plaintiffs if the petitioner is allowed to be impleaded as a party to the suit. The presence of the petitioner would rather help the court to arrive at a just conclusion and it will avoid further litigation between the parties. The trial court was thus not right in declining the prayer of the petitioner.

(8) In view of the above, the revision petition is allowed and the impugned order is set aside and while allowing the application of the petitioner under order 1 Rule 10 of the Code, the petitioner is ordered to be impleaded as a defendant to the suit. Consequently, the necessary correction in the array of defendants in the plaint shall be carried out accordingly. The trial court shall thereafter proceed to dispose of the suit in accordance with law.

S.C.K.