



CR-2032-2025

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(151)

CR-2032-2025

Date of decision: - 24.04.2025

Ashok Kumar Rana

....Petitioner

Versus

Suresh Kumar and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Shailendra Jain, Senior Advocate, with
Mr. Munish Sharma, Advocate, and
Mr. Rahul, Advocate
for the petitioner.

None for respondent No.1.

Mr. Gaurav Mohunta, Advocate and
Mr. Satyendra Kumar, Advocate
for respondent No.2.

VIKAS BAHL, J. (ORAL)

1. Present civil revision has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 17.02.2025 (Annexure P-8) passed by the Civil Judge (Junior Division), Gurugram, whereby an application under Order 1 Rule 10 CPC filed by the petitioner has been dismissed.

2. On 02.04.2025, this Court was pleased to pass the following order: -

*“Present:- Mr. Shailendra Jain, Sr. Advocate with
Mr. Munish Kumar, Advocate and
Mr. Rahul, Advocate for the petitioner.*



*Inter alia contends that the petitioner had purchased the share of Suresh Kumar-plaintiff vide registered sale deed dated 11.10.2024 and has submitted that although the petitioner is lis pendens purchaser but in view of provision under Order 22 Rule 10 CPC and also in view of law laid down by the Hon'ble Supreme Court in the case of **Yogesh Goyanka Vs. Govind and others** reported as **2024(7) SCC 524**, the petitioner at least has a right to become a party to the proceedings so as to make sure that plaintiff-respondent No.1, who had sold his share does not, on account of lack of interest and being brother of respondent No.1 (plaintiff), proceed in the present case without due diligence. It is further submitted that as per the settled law, the petitioner has to sink and swim with respondent No.1-plaintiff and thus, at least the petitioner has right to take the pleas in the final partition which respondent No.1-plaintiff can raise. It is submitted that the petitioner would not raise any independent plea beyond the plea which could be raised by respondent No.1-plaintiff.*

Notice of motion for 24.04.2025.

Notice regarding stay.

Liberty is granted to the petitioner to serve respondent Nos.1 and 2 through dasti process as well as through their counsel before the trial Court.

To be taken up in the urgent list.

02.04.2025”

3. Respondent No.1 has been served, however, none has appeared on his behalf.

4. Learned counsel appearing for respondent No.2 has submitted that the proceedings for final partition are now pending for 28.04.2025 and the Halqua Girdhwar has already been appointed as local commissioner, vide order dated 29.08.2024 (Annexure P-4). It is further submitted that even in case the petitioner is to be impleaded under Order



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22 Rule 10 CPC, then, the petitioner can only pursue the case as that of his vendor from the date of impleadment and it would not be open to the petitioner to challenge the earlier proceedings. It is stated that the petitioner be bound by the statement made on his behalf on 02.04.2025 to the effect that he would not raise any independent plea beyond the plea which could be raised by respondent No.1-plaintiff.

5. Learned senior counsel for the petitioner has agreed to the said submissions made by learned counsel for respondent No.2.

6. Keeping in view the above-said facts and circumstances and the fair stand taken on behalf of the petitioner as well as the respondent No.2, who is contesting the present revision petition and also keeping in view the law laid down by the Hon'ble Supreme Court in the case of "Yogesh Goyanka Vs. Govind and others", reported as **2024(7) SCC 524**, the present revision petition is disposed by modifying the impugned order dated 17.02.2025 to the effect that the petitioner would be permitted to join the proceedings from the present stage and would also be permitted to participate in the proceedings but would not be permitted to raise any independent plea beyond the plea which could be raised by respondent No.1-plaintiff.

7. All the parties concerned would assist the Court in expeditious disposal of proceeding for final partition.

April 24, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No