

IN THE COURT OF DISTRICT JUDGE LUCKNOW

Civil Revision No. of 2013

Ajay Pratap Singh, aged about 52 years, son of Kunwar Madan Mohan Singh, resident of House No. 5/96, Mahatma Gandhi Road, Lucknow.

.....Third party Applicant/Revisionist

Versus

1. Smt. Anupama Singh, aged about 36 years, wife of Sri Anuj Kumar, resident of 3/442, First Floor, Vishwas Khand, Gomti Nagar, Lucknow.

.....Plaintiff

2. Smt. Krishna Singh, adult, wife of Sri S.K. Singh, resident of 3/442, Ground Floor, Vishwas Khand, Gomti Nagar, Lucknow.

.....Defendant

.....Respondents

Valuation of Revision : Rs. 36,000/-

Court Fees Paid : Rs. 10/-

CIVIL REVISION UNDER SECTION 115 CODE OF CIVIL PROCEDURE AGAINST THE ORDER DATED 01.08.2013 PASSED BY LEARNED CIVIL JUDGE (S.D.) COURT NO. 20, LUCKNOW IN R.S. NO. 392 OF 2011 (SMT. ANUPAMA SINGH VS. SMT. KRISHNA SINGH) REJECTING THE REVISIONIST APPLICATION UNDER ORDER I RULE 10(2) CODE OF CIVIL PROCEDURE (A-26) FOR IMPLEADMENT FOLLOWING AMONG OTHER GROUNDS

- A. Because Smt. Krishna Singh, defendant/respondent no. 2 was the owner in possession of House No. 3/442, Vishwas Khand, Gomti Nagar, Lucknow who has transferred the said house in favour of revisionist vide registered sale deed dated 03.03.2012 which is registered in the office of Deputy Registrar-II, Lucknow in Bahi No. 1, Volume 12155, pages 309/378, having serial no. 3502, dated 03.03.2012 and this fact is already in the knowledge of plaintiff/respondent no. 1 who has filed the Regular Suit No. 392 of 2011 on 18.04.2011 in the court of learned Civil Judge (S.D.)

Lucknow for permanent injunction claiming herself tenant on a monthly rent of Rs. 3000/- at the first floor of said house and admitted the defendant/respondent no. 2 as her landlady owner of the suit property.

- B. Because the revisionist being the bonafide purchaser and inspite of fact that the title of the suit property now vested with revisionist, the plaintiff/respondent no. 1 has not impleaded him as party to the suit, the revisionist himself moved an application dated 27.09.2012 under Order I Rule 10(2) Code of Civil Procedure for his impleadment in the suit and placed his title deed in the judicial record of the learned Trial Court against which the plaintiff respondent no. 1 has filed her objection (C-33) stating therein that the suit property has been alienated illegally and she has not been informed and opposed for impleadment of revisionist as party to the suit against which the revisionist has further submitted his reply placing all the true and relevant facts as well as vide list C-36 the revisionist had already submitted the certified copy of registered sale deed executed by defendant /respondent no. 2 in favour of the applicant as well as certified copy of registered sale deed dated 21.06.2011 executed by Sri Pramod Kumar and Smt. Shobha in favour of plaintiff/respondent no. 1 and demonstrated before the learned Trial Court that the presence of revisionist in the suit for permanent injunction is necessary.
- C. Because the interest of the revisionist is involve in the suit property as the defendant/respondent no. 2 has already transferred the suit property in favour of revisionist who is now lawful owner in possession of the suit property and without his presence the controversy cannot be adjudicated between the parties as the interest of defendant/respondent no. 2 is no more involve in the suit property and it is only

revisionist whose interest and right to property is involved in the suit property.

- D. Because the learned Trial Court rejected the revisionist impleadment application recording the finding that the plaintiff has instituted suit for permanent injunction against defendant who has interfere into her possession and the relief of injunction comes under the class of personal relief and incase the applicant revisionist interferes into the possession of the plaintiff, she herself was competent to implead the applicant as party in the suit and presently there is no right of ownership in favour of plaintiff as such the application for impleadment deserves to be rejected.
- E. Because the learned Trial Court has lost its sight regarding the principle of impleadment of the party whose interest is involved in the subject matter and in the instant case since the revisionist has acquired the suit property through registered sale deed and now title vested with him as such without his presence the dispute between the parties cannot be determine. Thus, the revisionist is a necessary party in the proceeding and he cannot be deprived from his lawful right. The main object of rule is to prevent multiplicity of actions and a person who wants to join the proceeding whose presence is necessary as party having relevant evidence to give some of questions involved in the controversy and he has an interest in the correct solutions of some questions involved as such the revisionist should be impleaded in the proceeding to avoid multiplicity of litigation.
- F. Because the interest of the revisionist in the controversy is directly and legally involved and the result of the suit will effect him legally and his legal rights cannot be curtained thus the true test lies not so much in an analysis of what are consetientes of the applicant's right but rather in what would be the result on the subject matter of the action if

those rights could be established and the applicant/revisionist has placed the question in his impleadment application asking directly effect the interest in the enjoyment of his legal right.

- G. Because the finding recorded by the learned Trial Court is based on conjecture and surmises and overlooked the well settled law that the doctrine of lispendens does not anal the registered deed through which the revisionist has acquired his title over the suit property and Section 52 of Transfer of Property Act will not, therefore, render a transaction relating to the suit property during the pendency of the suit void but render the transfer in operative in so far as the other parties to the suit and in the instant case at least the revisionist has now acquired the title of the suit property in place of previous owner/defendant and the plaintiff's suit against her is only for permanent injunction and she has already admitted the title and ownership of the suit property vested with defendant/respondent no. 2 and presence of revisionist is, thus, necessary in the controversy and this aspect of the case has not been considered by the learned Trial Court.

PRAYER

It is therefore, most respectfully prayed that the Hon'ble Court be pleased to set aside the order dated 01.08.2013 passed by learned Additional Civil Judge (S.D.) Court No. 20, Lucknow in Regular Suit No. 392 of 2011 (Smt. Anupama Singh Vs. Smt. Krishna Singh) after summoning the record of learned Trial Court and further be pleased to allow the revisionist's impleadment application A-26 directing the learned Trial Court to decide the regular suit expeditiously after hearing both the parties.

The revisionist shall ever pray for this act of kindness.

Lucknow

Dated : 26.08.2013

(x)

Advocate
Counsel for the revisionist

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.....Defendant

.....Respondents

REGISTERED ADDRESS OF THE REVISIONIST

**AJAY PRATAP SINGH,
SON OF KUNWAR MADAN MOHAN
SINGH,
RESIDENT OF HOUSE NO. 5/96,
MAHATMA GANDHI ROAD,
LUCKNOW**

Lucknow

Dated : 26.08.2013

Revisionist