

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4755 OF 2008
(Arising out of S.L.P. (C) No.14602 of 2006)

Ramesh Chandra Pattnaik

...Appellant(s)

Versus

Pushpendra Kumari & Others

...Respondent(s)

O R D E R

Leave granted.

In a suit for specific performance of the alleged agreement of sale dated 10.4.1977 instituted by the petitioner against Respondent No.1 with a further prayer for grant of a decree of permanent injunction restraining Respondent Nos.1 to 9 herein from interfering with his possession, trial court allowed the application filed by Respondent No.10 under Order 1 Rule 10 of the Code of Civil Procedure, 1908 and granted her prayer for impleadment as a defendant. The petitioner unsuccessfully challenged the order of the Trial Court by filing writ petition before the Orissa High Court and then preferred petition for special leave to appeal.

Notice has been served upon Respondent No.10 but she has not appeared either in-person or through an advocate to contest the prayer made in the appeal.

We have heard learned counsel for the appellant and Respondent Nos.1, 2, 4, 5, 8, and 9.

....2/-

It is not in dispute that the petitioner filed suit in the year 1979 for specific performance of the alleged agreement of sale dated 10.4.1977. In that suit, the only scope of enquiry would be as to whether the said agreement was, in fact, executed between the petitioner and Respondent No.1. Respondent No.10 is alleged to have entered into an agreement with Respondent No.1 on 15.11.1984 for sale of the property, which is the subject matter of the suit filed by the petitioner. In respect of such an agreement, Respondent No.10, could have filed a suit for specific performance but, as stated by learned counsel appearing for the parties, no such suit has been filed. In our opinion respondent No.10 was not at all a necessary party for determination of the genuineness or otherwise of the agreement of sale which is said to have been entered into between the petitioner and Respondent No.1.

Accordingly, the appeal is allowed, impugned orders are set aside and the application filed by Respondent No.10 for impleadment is dismissed.

As the suit was filed in the year 1977, the Trial Court shall make all possible efforts for its disposal as early as possible.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
August 01, 2008.

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In the third last line of the order dated 1st August, 2008, the year “1977” be read as “1979”.

Ordered accordingly.

[B.N. AGRAWAL]

.....J.

[G.S. SINGHVI]

.....J.

**New Delhi,
September 01, 2008.**