

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.1251 of 2013

Date of Decision.27.03.2015

Nirmla Mangla and another

.....Petitioners

Versus

HUDA and another

.....Respondents

Present: Mr. APS Sandhu, Advocate
for the petitioners.

Mr. Ajay Nara, Advocate
for respondent No.1.

Mr. Rohit Rana, Advocate for
Mr. Kunal Dawar, Advocate
for respondent No.2.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The grievance of the petitioner is that decree holder who has got the mandatory relief of injunction directing the 1st respondent-HUDA to transfer the allotment made originally in favour of the 2nd defendant to be made in favour of the plaintiff. In spite of decree of injunction, HUDA has not carried it out and therefore, execution petition has been filed by the decree-holder under Order 21 Rule 32 complaining of breach. The respondent-HUDA has stated as objection that a relief of injunction has been granted by the High Court at Delhi restraining any transfer from the petitioner to the 2nd respondent. HUDA itself is not a party to such an order that has been issued by the

High Court in the proceedings initiated by some private company against the 2nd defendant in suit. The counsel would argue that the Executing Court cannot go beyond the terms of the decree and if there is already a direction for transfer of registration of plot from the name of the 2nd defendant to the plaintiff, HUDA is bound to follow the same. While the principle of law as canvassed by the counsel is well taken, there is a peculiar circumstance that exists that would make HUDA as a party in breach of the order of the High Court although it is not made as party. Such a breach will obtain by implication, for, if there is an order of restraint of transfer from the name of the 2nd defendant brought at the instance of the third party that change from the 2nd defendant's name is barred by a Court order. If the 2nd defendant cannot make transfer of title, transfer could be done only by HUDA. The order of the High Court must be taken also casting a bar against HUDA from making such a transfer. It shall be left either to HUDA to seek modification of the order of High Court pointing out to the decree that it has suffered after a contest or it shall be open for the plaintiff-decree holder to approach the Hon'ble High Court at Delhi and seek for modification or vacation of order which is already passed.

2. With these observations, I hold that it is not possible to find an error for an intervention in revision. The petitioner may adopt the course which I have outlined above. The civil revision is disposed of.

(K. KANNAN)
JUDGE

March 27, 2015
Pankaj*