

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.2570 of 2015 (O&M)

Date of decision: 10.04.2015

Ram Chander and another

... Petitioners

versus

M/s Unitech Limited

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Jasbir Singh Malik, Advocate,
for the petitioners.

Mr.Aashish Chopra, Advocate,
and Mr. Arvind Seth, Advocate,
for the respondent-Caveator.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The petitioners are the defendants-counter claimants in a suit filed by a colonizer seeking for declaratory rights on the basis of a purchase from the petitioners. The counter claim was to disown the sale deed executed by the defendants-petitioners in favour of the plaintiff. The sale had taken place after notice issued under Section 4 of the Land Acquisition Act and declaration passed under Section 6 of the said Act. The defendants-petitioners were relying on recitals that the sale deed made it appear as though there were no

acquisition proceedings when actually Section 4 notification and Section 6 declaration had already been done. The defendants would also make reliance to the fact that no money had been paid before the Sub-Registrar and would contend that the cheques that were said to have been issued as constituting the consideration were never honoured. It appears that the plaintiff had not sought for a relief of injunction but later withdrew it. He also appears to have arrived before this court in civil revision and had it also withdrawn. The suit was withdrawn but the counter claim persisted. The defendants moved an application for injunction that it will be against law when there are acquisition proceedings to allow for sale of the property for creation of third party interest. The injunction was declined by the trial Court and in appeal also it failed.

2. The learned counsel would make reference to the fact that the courts were in error in not extending the benefit of interim order against the plaintiffs from creating third party interest through sales of property when the acquisition notifications are still in force and when there is a counter claim that would require to examine whether the sale alleged to have been effected by the defendant in favour of the plaintiff was true or not.

3. The relief of injunction in favour of any party could be given only on satisfaction of a strong prima facie case in favour of the party who claims the property under the sale. Since the

injunctive reliefs are in the realm of equitable jurisdiction, it would also be necessary to examine the conduct of a party to assess whether such a discretionary relief must be extended to the party.

4. It is a notorious fact in the State of Haryana that colonizers go on a spree of enticement after notifications are made with offer of big time consideration to landowners that their own offer would be more than the price that the government could fix by way of compensation. The activity is normally grounded on an assumption that a colonizer would be able to throw his own clout with the establishment to have the property released from the acquisition. In all such transactions, the landowners are as much guilty as the colonizers. If the defendants, in this case, purported to effect a sale deed, it could never be stated that he did not know that there was an acquisition proceeding. If they have been parties to the document and they want to contend that they were made victims of fraud, I will not take it to be at least a situation of a prima facie case for a person to resile from a registered document. Even if third party interest were to be created at the instance of the colonizer, he takes the risk. As far as the defendants-petitioners are concerned, there is nothing to lose. They have been parties to the transaction, the untruth of which, in the manner that the defendants claim, is still to be decided. There could be no apprehension for any injury to the defendants. If at all, the injury would be to be an unwary purchaser

who may be duped by the colonizer who has purchased the property.

There is no ground to extend any arm of equity to the defendants who have participated in a fraud along with the colonizer; at least prima facie so, in my perception.

5. I decline to make any intervention in favour of the petitioners. The civil revision is dismissed.

(K.KANNAN)
JUDGE

10.04.2015
sanjeev