

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 3533 of 2015
Date of Decision: 21.5.2015.**

Jit Kaur (deceased) through her LR
and another

.....Petitioners

Versus

Mohinder Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vibhav Jain, Advocate
for the petitioners.

SABINA, J.

Petitioners have filed this petition under Article 227 of Constitution of India challenging the order dated 1.5.2015 (Annexure P-3) whereby application moved by the petitioners under Order 41 Rule 5 of the Code of Civil Procedure, 1908 ('CPC' for short), was dismissed.

I have heard the learned counsel for the petitioners and have gone through the record available on the file carefully.

Respondent had filed suit for specific performance of agreement to sell dated 13.6.1990. Suit filed by the respondent was decreed by the Trial Court vide judgment/decreed dated 6.1.2015. Aggrieved against the said judgment and decree, petitioners preferred an appeal. Along with the appeal, an application under Order 41 Rule 5 CPC was filed by the petitioners.

The First Appellate Court vide the impugned order, dismissed the

application moved by the petitioners. Hence, the present petition by the petitioners.

Learned First Appellate Court while dismissing the application moved by the petitioners for stay of the execution of the judgment/decreed passed by the Trial Court, noticed that Lehmbur Singh had already executed sale deed dated 17.6.2011 qua the suit property during the pendency of the suit. However, the said fact was not brought to the notice of the Court. In these circumstances, the learned First Appellate Court rightly held that since the property in question had already been sold by Lehmbur Singh, during the pendency of the suit, to Harjinder Kaur, he did not suffer any loss if the execution of the judgment and decree passed by the Trial Court, were not stayed during the pendency of the appeal.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

May 21, 2015
Gurpreet