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

CR No.4527 of 2015

Date of decision: July 21, 2015

Tula Ram

.....Petitioner

Versus

Parveen Kumar

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.S. Khurana, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 02.07.2015.

Learned counsel for the petitioner has submitted that in fact, petitioner had executed agreement to sell in favour of respondent qua 4 kanals of land. However, respondent by playing fraud, had got executed sale-deed qua 6 kanals of land.

Petitioner has filed the suit challenging the sale-deed dated 21.02.2014. Alongwith the suit, petitioner moved an application under Order 39 Rules 1 and 2 of Code of Civil Procedure, 1908 ('CPC' for short) for temporary injunction. The said application was allowed by the trial Court vide order dated 30.05.2014 and the respondent was restrained from getting the entry incorporated in the record on the basis of the sale-deed and to create charge on the suit property or

alienate the suit property. Aggrieved against the said order, respondent filed an appeal. The Appellate Court vide impugned order dated 02.07.2015 allowed the appeal and dismissed the application moved by the petitioner under Order 39 Rules 1 and 2 CPC.

In the present case, admittedly, sale-deed in question has been executed by the petitioner in favour of the respondent. Parties are yet to lead their evidence in support of their respective pleas. Any alienation made by the respondent, during the pendency of the suit, would be hit by the principle of *lis pendens*. Since the respondent was having a valid document of title in his favour, at this stage, there is no ground to restrain the respondent from enjoying the property in the manner, he likes. The learned Appellate Court had thus rightly held that the application moved by the petitioner under Order 39 Rules 1 and 2 was liable to be dismissed.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

July 21, 2015
mahavir