

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

CWP No. 14528 of 2014 (O&M)
Date of decision: February 13, 2015

Sanjiv Kumar @ Rinku

...Petitioner

Versus

Punjab State Power Corporation and others

...Respondents

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?**

Present: Mr. Shakti Bhardwaj, Advocate,
for the petitioner.

Ms. Jaspal Gurna, Advocate,
for PSPCL.

Mr. Padamkant Dwivedi, Advocate,
for respondents No. 3 and 4.

Mr. KS Dadwal, Advocate,
for respondent No.5.

K. KANNAN, J. (Oral)

1. The petitioner has approached this court for grant of electricity connection. Having failed in his earlier attempt to seek for such a relief in a writ petition filed in CWP No. 10616 of 2013, the petitioner claims as a successor-in-interest of two persons, Kamaljit and Sadhi Lal, who in turn claimed right to property that was transferred in favour of the petitioner through a bequest said to have been made in his favour by his father to the exclusion of the widow and the daughter. There has been a suit filed at the instance of the widow and the daughter when the will had been set up in

defence. The two courts have upheld the will but a second appeal has been filed by the widow and the daughter in RSA No. 555 of 2003. The court had passed an order on 14.2.2003 restraining the defendants from constructing or alienating the said property in any manner whatsoever to any third person.

2. When the petitioner, who claims a purchaser therefor sought for an electricity connection through the writ petition in CWP No. 10616 of 2013, the court observed that appropriate remedy would be for the petitioner to seek for impleadment in the second appeal and seek for modification of the order that was already passed on 14.2.2003. The construction proceeded all the same and the petitioner took no steps to implead himself. The affected parties, namely, the daughter and the widow appears to have filed a contempt petition before the court alleging that the interim order passed by this Court in RSA No. 555 of 2003 has been violated by the petitioner. The court observed that the petitioner's purchase was even prior to the court's order dated 14.2.2003 and, therefore, order cannot mean that there was any violation of the court's order to be visited with action for contempt. This order passed subsequently in the contempt petition is a shot in arm for the petitioner to approach this court again for a fresh relief, the relief that has been denied to him in the earlier round.

3. In any normal situation, where a claim to the immovable property is made and an adjudication is made between the parties, it must be taken that every order made shall bind the successor as well. The doctrine of lis pendens must be taken to operate from the date when the suit was instituted. If there is a claim for partition in relation to the property and if there is still a claim pending, the purchaser does not lose the right to the

property nor can a party be fettered from selling the property, unless there are specific directions thereof. In this case, the petitioner's purchase must be taken as hit by *lis pendens* and, therefore, must conform the ultimate decree that is passed. If there is no fetter to the alienation at the time when the property was sold, the sale itself will not become invalid. It will be subject to the ultimate decision in the civil court. Since the claim of the daughter and the widow are not yet finally adjudicated, the purchase of the petitioner must be taken to subject to any out come that may arise in the civil proceedings.

4. If an order has been passed by this court restraining the sale or any activity of construction that order will operate from the date when the order was issued. It ought to be taken as operating against every purchase which is affected during the *lis pendens*. The order passed in 2003 against any construction as well must, therefore, be taken to operate against a purchaser *lis pendens*. If the court held that there was no contempt of court on the basis that his own purchase was prior to the date of the order, it must be limited only for the purpose of disposal of the contempt petition and will not affect the operation of law that should be made, while applying the doctrine of *lis pendens*, as Section 53-A of the Transfer of Property Act lays down.

5. Not all is lost to the petitioner. There is a procedure that he must follow which was the appropriate procedure laid down already by this court in the earlier round. A person who is a pendente lite purchaser may not implead himself as party and leave the vendor to protect him since Sections 55 and 56 of the Transfer of Property Act makes a vendor liable for protecting the interest of a purchaser. If the petitioner would not be

satisfied with the conduct of the predecessor, he is entitled to protect his title. He should come on board himself, declare his own inconvenience, make a plea of how his own interest will be protected in the event of reversal of the decision. An amenity of electricity is seen to be not any longer a luxury but a necessity under Section 43 of the Electricity Act. There are decisions which allow for a person to enjoy all amenities even if he is in unauthorized occupation, provided sufficient protection is given or indemnity is provided in the manner that the electricity board might require, if the original owner stakes claim to the property. In this case, we have a claim subsisting over the property at the instance of the widow and the daughter of the original owner of the property, who have not been the petitioner's vendor. It will be only appropriate that the petitioner approaches the court in RSA No. 555 of 2003 and seek for modification of the order and till that is done any grant of electricity connection will mean a needless multiplication of the proceedings, which the petitioner shall do well to avoid.

6. The writ petition is disposed of with the above observations.

February 13, 2015
prem

(K.KANNAN)
JUDGE