

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 1712 of 2015 (O&M)
Date of decision : April 5, 2016

Suman Kapoor and another

..... Petitioners

Versus

Thakar Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Roopak Bansal, Advocate
for the petitioner.

Mr. V. K. Sandhir, Advocate
for respondent No.1.

Mr. Suneet Kumar, Advocate
for respondent No.2.

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?

Amit Rawal, J (oral).

The petitioner-third party-objectors are aggrieved of the dismissal of the objections qua execution of the judgment and decree dated 3.10.2005.

Learned counsel appearing on behalf of the petitioners submits that petitioners are bona fide purchasers for a valuable consideration as vide sale deed dated 29.8.2005, they have purchased 125 sq.yards of plot, therefore, the doctrine of lis pendence would not apply, it is in these circumstances, the

objections were filed. The trial court was obliged as per provisions of Order 21 Rule 101 of Code of Civil Procedure, 1908, thus the judgment and decree seeking specific performance of the agreement to sell dated 28.4.1992 in respect of an area measuring 125 sq.yard is not sustainable at this stage.

Learned counsel appearing on behalf of the respondent-defendant No.1-vendor submits that the vendor had entered into an agreement to sell dated 28.4.1992 in respect of land measuring 1000 sq.yard. Since defendant No.1-vendor did not come forward in part performance of the agreement to sell, suit was filed along with ad interim injunction which was granted vide order dated 17.4.1995 whereby the vendor was restrained from alienating, creating third party rights and finally it was confirmed in November, 1995. During the pendency of the suit, vendor parted/alienated the various areas of land but did not inform the Court. The suit aforementioned was decreed on 3.10.2005. The third party cannot be treated to be bona fide purchasers as sales are hit by doctrine akin to lis pendence, much less during the currency of the agreement to sell, therefore, rightly so the objections have been dismissed and no issues were required to be framed.

Learned counsel appearing on behalf of respondent No.2 submits that vendor has already parted with the area, therefore there is no dispute in decreeing the suit.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no substance and force in the plea of learned counsel for the petitioners, for the

reason that as the sale deeds were executed during the pendency of the suit and three months before the passing of the judgment and decree dated 3.10.2005, thus are hit by doctrine akin to lis pendence. The plea of bona fide purchaser is prima facie not available for the reason that defendant was contesting the case and was not proceeded ex-parte and there was ad interim stay. In essence, defendant No.1 was enjoined not to alienate the suit property, there is blatant violation of the interim order. In my view, the trial court was not required to frame issues in such type of objections, rightly so the same have been dismissed. In view of the aforementioned facts, and circumstances, the impugned order is affirmed.

I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction. The revision petition is devoid of merits. Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

April 5, 2016
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