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

CR-7132-2015(O&M)

Date of decision : 02.02.2016

Roshan Lal

...Petitioner

Versus

Susheel Kumar Khullar

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Aayush Gupta, Advocate
for the petitioner.

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-defendant is aggrieved of the impugned order dated 27.04.2012 whereby the application filed under Order 39 Rules 1 and 2 of the Code of Civil Procedure (hereinafter called 'CPC'), in a suit claiming specific performance of the agreement to sell dated 19.01.2006, has been allowed by observing that the petitioner-defendant shall maintain status quo with regard to the alienation of the suit property till the disposal of the suit.

Mr. Aayush Gupta, learned counsel appearing on behalf of the petitioner-defendant, submits that the suit has been instituted in the year 2006, whereas application under Order 39 Rules 1 and 2 CPC has been allowed vide order dated 27.04.2012 and the appeal filed by the petitioner-defendant has been dismissed on 18.08.2015. The alleged agreement to sell does not ex facie comply with the statutory requirement of the Specific Relief Act, much less, Contract Act. In fact, there is no agreement in the eyes of law. The terms and conditions of the agreement are so vague, much less, prudently unbelievable. No party wait for a period of six months after parting with substantial amount, inasmuch as the total sale consideration was ₹ 35,00,000/- whereas the earnest money (₹ 30,00,000/- in cash) of purported to have been paid . The balance of convenience and a prima facie case did not lie in favour of the respondent-plaintiff to seek the alienation as no irreparable loss would be caused. Even otherwise, any alienation would be hit by the *Doctrine Akin* to the *lis Pendens*, thus, prays for setting aside the impugned order.

I have heard the learned counsel for the petitioner and appraised the paper book.

I am of the view that the petitioner-defendant had been instrumental in causing delay in adjudication of the suit as far as possible as has been, for the reasons that the entire focus has been on the adjudication of the application under Order 39 Rules 1 & 2 CPC

filed along with the suit which has taken almost five to six years and thereafter, three years in the Appellate Court by filing the miscellaneous appeal. The contest of the status quo order, viz-a-viz the alienation give rise to multiplication of litigation, for the reason that the petitioner-defendant may not create a third party right. No doubt doctrine of *lis Pendens*, would be apply in case of alienation of a property during the pendency of the suit, but it would create a multiplication of litigation, so the Courts below have rightly injuncted the petitioner-defendant in maintaining the status quo order with regard to the alienation of the suit property. The ingredients of the Order 39 Rules 1 and 2 CPC, a prima facie case have been found in favour of the respondent-plaintiff.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by both the Courts below, as these are based upon the appreciation of the oral and documentary evidence.

Accordingly, the civil revision petition is dismissed.

02.02.2016
yogesh

(AMIT RAWAL)
JUDGE