

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

Sr. No.111

Civil Revision No. 1166 of 2017
DECIDED ON: February 27, 2017

Narinder Kumar

..PETITIONER

VERSUS

Shashi Devi and another

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vimal Kumar Gupta, Advocate,
for the petitioner.

JASPAL SINGH, J. (ORAL)

By virtue of the instant petition preferred under Article 227 of the Constitution of India, petitioner has sought setting aside of order dated January 23, 2017 (Annexure P-6) passed by Id. District Judge, Yamuna Nagar at Jagadhri in CIS No. CA-34 of 2017, whereby an application moved under Order 41 Rule 5 CPC has been dismissed.

Undoubtedly, appeal preferred by the petitioner-plaintiff has been admitted against the judgment and decree dated 16.12.2016 passed by Civil Judge (Jr. Division) Yamuna Nagar at Jagadhri in Civil Suit No.CS339 dated 05.03.2013/26.09.2013, whereby the suit of the plaintiff-petitioner was dismissed. However, an application under Order 41 Rule 5 CPC has been dismissed. No doubt, the principle of lis pendence would be applicable during the pendency of the lis between the parties and further, if the nature of the property in suit is changed during pendency of the suit as the property in question is stated to be in possession of the respondents-

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defendants. Though, no illegality can be found in the impugned order passed by the District Judge, Yamuna Nagar at Jagadhri, yet the instant petition is disposed of with the observation that anything done with regard to the alienation or change of nature of property, construction or otherwise in the disputed property would be subject to the decision of the appeal.

February 27, 2017
Ankur

(JASPAL SINGH)
JUDGE