

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8362 of 2017

Date of Decision:- 07.12.2017

Krishan Kumar Kataria

.....Petitioner.

Versus

Raj Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms.Sharmila Sharma, Advocate, for the petitioner.

RITU BAHRI, J. (Oral)

Petitioner has come up in revision for setting the impugned order dated 14.09.2017 (Annexure P-6) and order dated 16.11.2017 passed by learned Civil Judge (Jr.Divn.), Gurgaon (Annexure P-7) whereby application filed by the petitioner under Order 1 Rule 10 read with Order 6 Rule 17 CPC have been dismissed.

A perusal of the order shows that plaintiff filed the present suit for possession by way of partition and declaration with consequential relief of permanent injunction restraining the defendants from alienating the suit properties was ancestral in the hands of Late Daya Ram and he could not execute the Wills bearing No.557, 558, 559 & 560 dated 16.02.2001. The nature of the property being ancestral as such, the suit properties would be in possession being co-sharer and the application filed by the plaintiffs under Order 39 Rules 1 and 2 read with Section 151 CPC was dismissed by giving direction that in case of alienation of suit properties, the defendants shall inform the Court about the same and shall supply to the Court the particulars of the transferee. During the pendency

of the case, defendant had sold the suit land to Sumit and Munish sons of Ashok Kumar R/o House No.2756 Amardeep Colony, Hissar, vide sale deed Vasika No.4697 dated 21.07.2017 and intimated the Court about the sale and particulars of transferee in compliance of order dated 24.12.2013.

Since the subsequent purchaser had stepped into the shoe of defendant, there was no need to implead them as party because they were bound by the judgment of this Court in case of ***Shimla Banking and Industrial Co.Ltd. Vs. Firm Luddar Mal Khushi Ram and Others AIR 1959 Punjab 490 (V 46 C 150)*** whereby the rule of lis pendence extends the scope of the rule of res judicata, the principal of which was, that the parties and their privies were bound by the judgment of this Court. The rule of lis pendence goes a step further and lays down that whoever purchases a property during the pendency of an action, is held bound by the judgment that may be made against the person from who he derived his title, even though such a purchaser was not a party to the action or had not notice of the pending litigation. It is a rule of public policy for other successive alienations will defeat the very purpose of litigation, making it interminable. As such, the present application is rightly dismissed.

By way of the application under Order 6 Rule 17 CPC, plaintiff filed the application for amendment in plaint. The grounds of the amendment taken by the applicant in his application were that defendant sold land to Sumit and Manish and now they were proper and necessary party and plaintiff also wanted to challenge the sale deed vasika No.4697 dated 21.07.2017 and also wants to add para No.7 sub

para (ii) in this regard and other facts and mentioned in application. The trial Court was of the view that the subsequent purchaser i.e. Sumit and Munish had stepped into the shoe of defendant and they have purchased the property when the civil litigation is pending between the parties. It has been further observed that the share sold by the defendant was during the pendency of the this civil suit and due to that reason alienation by defendant to Sumit and Munish hit by Lis-pendence. So, there is no ground made out to interfere in the order dated 16.11.2017 for application qua amendment in the plaint and as such, the same is also dismissed.

07.12.2017
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(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>