

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

CR No.5227 of 2016

Date of Decision: 01.11.2017

Maghar Singh Grewal and othersPetitioners

Versus

Jagraj Singh and another ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Amandeep Singh Rai, Advocate
for the petitioners.

RAJ MOHAN SINGH, J.

[1]. This revision petition has been directed against the order dated 23.05.2016 passed by Civil Judge (Junior Division), Ludhiana whereby the application under Order 1 Rule 10, Order 22 Rule 10 and Section 146 read with Section 151 CPC filed by the petitioners for impleading them as party defendants was dismissed.

[2]. Plaintiff filed a suit for specific performance of agreement to sell dated 15.03.2008 in respect of suit property. The suit was decreed *ex parte* vide judgment and decree dated 06.03.2010.

[3]. During pendency of the suit, the applicants purchased the suit property from defendant/respondent No.2 vide registered sale deed dated 29.06.2009. Mutation was also sanctioned in favour of the applicants. The fact was in the knowledge of the decree holder as he raised objections before

the Tehsildar and revenue authorities for not sanctioning the mutation of the disputed property in favour of the applicants. The applicants alleged that they were not in the knowledge of the agreement to sell which was allegedly executed by the judgment debtor till the date of execution of sale deed executed by the judgment debtor in favour of the applicants. They claimed themselves to be *bona fide* purchaser for consideration without notice of agreement to sell and pending litigation.

[4]. Learned counsel for the petitioners relied upon Order 22 Rule 10 CPC and Section 146 CPC to contend that the transferee *pendente lite* has a right to continue the suit by stepping into the shoes of the transferrer. Learned counsel also relied upon **1955 AIR (SC) 376, Jugalkishore Saraf Vs. M/s Raw Cotton Co. Ltd., 2012(74) RCR (Civil) 179, Sunil Kumar Das and another Vs. Sushil Kumar Seth and others** and **2013(15) RCR (Civil) 425, Balwant Singh and another Vs. Saroj Kumari and others.**

[5]. Having considered the arguments, I am of view that concededly, the property was purchased by the applicants during pendency of the suit between the decree holder and judgment debtor. Under Order 21 Rule 102 CPC, the vendee *lis pendens* cannot put any restraint in execution of the decree. The question arises whether the applicant can be impleaded as

party in the execution of a decree to put resistance particularly when there is no *lis* pending against the decree under execution in the form of appeal or revision. In my considered opinion, under Order 21 Rule 102 CPC, such type of resistance cannot be permitted by the vendee *lis pendens*.

[6]. Concededly, the execution is pending in which such a resistance is sought to be presented. The transferee *pendente lite* of the judgment debtor cannot be termed to be a third party as they will only step into the shoes of their vendor. When the vendor cannot put restriction to the execution of the decree, therefore, in terms of Order 21 Rule 102 CPC, the resistance cannot be put by those persons to whom the judgment debtor has transferred the property after institution of the suit in which decree was passed. Therefore, the objections raised by the petitioners even in the form of filing application under Order 1 Rule 10, Order 22 Rule 10 and Section 146 read with Section 151 CPC for impleading them as party defendants in the execution, would not clothe them with any right to maintain the objections in execution of decree which has already attained finality. Even if, a challenge was made by the decree holder against the sale deed dated 29.06.2009 and the same was subsequently got dismissed as withdrawn, it would not give any possessory right in favour of the judgment debtors who are

concededly vendees *lis pendens* of the suit property. The precedents cited by the petitioners are apparently not attracted to the situation where the interpretations of Order 21 Rule 102 CPC and Section 52 of the Transfer of Property Act are involved.

[7]. In view of above, the impugned order dated 23.05.2016 passed by Civil Judge (Junior Division), Ludhiana cannot be faulted with. This revision petition is accordingly dismissed.

01.11.2017

prince

Whether Reasoned/Speaking

Whether Reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No