

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

COCF No. 888 of 2013 (O&M)

Date of Decision: 22.01.2018

Sher Singh

..... Petitioner

Versus

Smt. Shanti Bai and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ashish Gupta, Advocate for the petitioner-plaintiff.

Mr. Kabir Sarin, Advocate
for the respondents-defendants/vendor & vendees.

Mr. Karan Singla, Advocate-*Amicus Curiae*

Mr. D.K. Mittal, Deputy Advocate General, Haryana.

JASWANT SINGH, J. (ORAL)

Smt. Shanti Bai (respondent No. 1) was the owner of total land measuring *9 Kanal 11 Marlas*. She entered into an agreement to sell on 04.01.1984 with the petitioner-Sher Singh. The suit for specific performance filed by the plaintiff-petitioner was partly decreed to the extent of 32 Marla only and on his appeal, decreed in *toto* vide judgment and decree dated 20.12.1990 (**Annexure P-1**).

Defendant-Smt. Shanti Bai/vendor filed a regular appeal bearing *RSA No. 1146 of 1991* against the decree dated 20.12.1990 (**P-1**), wherein on 09.08.1991, the following order was passed:

“ ***CM No. 2400-C of 1991
in RSA No. 1146 of 1991***

Present: Mr. S.K. Jain, Advocate for the appellant.

Admitted.

Execution of the decree is stayed meanwhile.

August 9, 1991

*Sd/-
(N.K. SODHI)
JUDGE ”*

It transpires that Smt. Shanti Bai/appellant in the aforesaid RSA, proceeded to sell of the entire suit land vide a registered sale deed dated 22.11.2012 (**Annexure P-2**) to Smt. Kamlesh and Smt. Nisha impleaded herein as respondent Nos. 2 & 3, respectively.

It is claimed that by the sale of the suit land, Smt. Shanti Bai has committed contempt of Court by violating the interim order dated 09.08.1991 passed in *RSA No. 1146 of 1991*.

Learned counsel for the parties have been heard.

It is apparent that there was no specific order restraining the vendor(s) from alienating the suit land and it was only the petitioner-plaintiff, who was restrained from executing the decree, i.e., a sale deed through the process of the Court. It is further conceded that an application bearing *CM No. 14674-CII of 2012* was filed by the plaintiff/petitioner (Sher Singh) in the pending *RSA No. 1146 of 1991* under Order 39 Rules 1 & 2, CPC, wherein vide order dated 12.04.2013, the appellant-vendor/Smt. Shanti Bai was restrained from alienating the suit property, i.e. much after the sale deed stood executed. The plaintiff had still failed to implead the subsequent vendees in the pending RSA, so as to atleast bind them down to the order dated 12.04.2013 being assignees of the vendor, who by the time had already alienated the suit land. It is further conceded position that Smt. Shanti Bai, after executing the registered sale deed dated 22.11.2012 (**P-2**), has died on 18.07.2016, therefore, even if it was to be hypothetically assumed that Smt. Shanti Bai is guilty of violating any order, no action can be initiated against a dead person.

The doctrine of *lis pendens* certainly would apply against the

vendees, however, to protect the interest of the petitioner-plaintiff, it is

hereby ordered that further alienation by respondent Nos. 2 & 3 (represented by counsel) would not be made without seeking permission of the Court.

In view of above, no contempt is made out, therefore, the present contempt petition is **dismissed**, with the aforesaid directions *qua* respondent No. 2-Kamlesh and respondent No. 3-Smt Nisha (subsequent vendees).

January 22, 2018

'dk kamra'

**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>