

Civil Revision No.1790 of 2018

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

Civil Revision No.1790 of 2018

Date of decision: 19.03.2018

Bimal Kaur and another

.....Petitioners

versus

Satwinder Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Amit Singh Sethi, Advocate, for the petitioners.

RAMENDRA JAIN, J. (ORAL)

Through this revision petition under Article 227 of the Constitution of India challenge has been laid to order dated 13.10.2017 (Annexure P-9) of the First Appellate Court, affirming the order of the trial Court dated 22.07.2016 (Annexure P-7), whereby petitioners have been restrained from alienating the suit property measuring 10 marlas till the decision of the suit.

In nutshell, on 04.05.2015 respondent No.2 executed a pronote and receipt for ₹4,58,666/- in favour of respondent No.1-plaintiff against borrowing a sum of Rs.4.00 lakh with interest @ 2% per month included upto 14.12.2015. However, respondent No.2 without re-payment of the said loan to respondent No.1-plaintiff sold 10 marls of land to the petitioners vide sale deed dated 03.09.2015. On asking, when respondent No.2 did not repay the loan amount, respondent No.1-plaintiff filed a suit for recovery

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petitioners a party being vendee of respondent No.2, pleading his lien on the property purchased by them till his loan amount along with interest is not repaid, and to restrain the petitioners from alienating the suit land in any manner whatsoever till disposal of the suit.

The trial Court after hearing both the vide order dated 22.07.2016 (Annexure P-7) restrained the petitioners from alienating the suit land in any manner whatsoever.

Being aggrieved, petitioners approached the First Appellate Court, but remained unsuccessful as their appeal too was dismissed.

Learned counsel for the petitioners *inter alia* contends that the doctrine of *lis pendens*, which has weighed much in the mind of the First Appellate Court has no application, because the transaction in between petitioners and respondent No.2 had taken place much earlier to filing of the instant suit by respondent No.1-plaintiff. Even otherwise, petitioners could not have been restrained by both the Courts below from alienating the suit property being *bona fide* purchasers.

Having given considerable thought to the submissions made by learned counsel for the petitioners, this Court finds that the impugned orders require modification to the effect that, in case, the petitioners intend to alienate suit land purchased by them from respondent No.2 by way of sale, gift and mortgage or by any other means or apply for loan on the same at any point of time, they would inform the Court and would seek prior permission in this regard.

With this modification, the petition is disposed of.

This order is passed without issuing notice to the respondents

with a view to impart justice to the parties and to save the huge expenses

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which may be incurred by the respondents and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondents may move this Court for recalling this order within six weeks from today.

(Ramendra Jain)
Judge

March 19, 2018
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.