

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

**CR No.3732 of 2016 (O&M)**  
Date of decision: 4<sup>th</sup> May, 2018

M/s Holy Faith International (P) Ltd. & others

... Petitioners

Versus

Sunita Mehta

... Respondent

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. Kanwaljit Singh, Senior Advocate with  
Mr. Piyush Aggarwal, Advocate  
for the petitioners.

Mr. Raman Goklaney, Advocate for the respondent.

**FATEH DEEP SINGH, J.**

Plaintiff Sunita Mehta (present respondent) filed against the defendants (now revisionists) M/s Holy Faith International (P) Ltd., a suit for possession by way of specific performance of the agreement to sell dated 25.05.2004 and in the alternative suit for recovery of Rs.23,00,000/- and consequential relief of permanent injunction restraining the defendants etc. from alienating/selling/raising any kind of construction or creating any charge over the suit property. In the said suit, an application under Order 39 Rules 1 and 2 CPC read with Section 151 CPC for grant of temporary injunction was also moved whereby the Court of learned Civil Judge (Junior Division), Jalandhar

through order dated 03.08.2015 dismissed the said application however, making the following observations:

*“13. ... .. However, if during the pendency of this suit, defendant No.1 will execute any such agreement with any other party that will be done by the defendants at their own risk and same will be subject to the decision of this case on merits.”*

The same was challenged by the plaintiff in appeal before the Court of learned Additional District Judge, Jalandhar who through impugned judgment dated 06.01.2016 (Annexure P1) set aside the orders of the trial Court and allowed the appeal thereby restraining the defendants/revisionists from alienating or creating third party interest in the suit property till the pendency of the suit. The same is sought to be challenged by the revisionists/defendants in this invocation before this Court.

Heard Mr. Kanwaljit Singh, Senior Advocate assisted by Mr. Piyush Aggarwal, Advocate representing the petitioners and Mr.Raman Goklaney, Advocate for the respondents and perused records of the case.

It is a dispute between the two sides that the defendants, being the registered owner of the suit property, through agreement to sell dated 25.05.2004 with the plaintiff agreed to sell the same for a

total consideration of Rs.23.00 lacs and it is alleged that full and final payment was received from the plaintiff at the time of execution of the agreement to sell. During the course of time, it is alleged that the Managing Director of M/s Holy Faith International (P) Ltd. expired and his legal representatives have been brought on the records and therefore, defendants were bound to execute and register the sale deed of the said property on the basis of agreement to sell in question. It is claimed that a property popularly known as 'Hari Cinema' was purchased by M/s Holy Faith International (P) Ltd. and to settle the dispute with the tenants in the property it is alleged that the plaintiff Sunita Mehta was appointed as authorized representative to act on behalf of M/s Holy Faith International (P) Ltd. and after a particular resolution was passed, Special Power of Attorney was also given to the plaintiff, who in fact gained faith and interest of the Managing Director Ashok Kumar Malhotra (the deceased) and who it is alleged managed to obtain certain signatures. Thus, a material question has arisen over the same. The respondent claims that by virtue of the agreement to sell dated 25.05.2004 executed by Ashok Kumar Malhotra she has come to be owner of 1/15<sup>th</sup> share of the property for a consideration of Rs.23.00 lacs which has been paid by her in cash and which fact is totally denied

by the other side and thus the same is subject matter of adjudication after parties lead their evidence.

The invariable admission on the part of M/s Holy Faith International (P) Ltd. that Sunita Mehta managed to procure the signatures of Ashok Kumar Malhotra (now deceased) and fabricated the documents, leads to irresistible conclusion that they admit his signatures though much reliance is sought to be placed by learned counsel for the appellants on **‘Vinod Seth v. Devinder Bajaj & another’ 2010(3) RCR (Civil) 813** and **‘A. Nawab John and others v. V.N. Subramaniam’ 2012(3) RCR (Civil) 749** to impress upon the Court that even if owner of the property sells the property during pendency of the suit, the transaction though is not void but renders the transfer inoperative in so far as the other party to the suit is concerned and thus, there was no cause for any apprehension as expressed by the respondent and in the impugned judgment of the learned first appellate Court. The same is sought to be controverted by Mr. Goklaney on behalf of the respondent, who has sought to argue that if the petitioners are not restrained from either raising construction or alienating the suit property, would certainly change the character of the property which would not be preserved and thus, would cause unnecessary inconvenience and harassment at a subsequent stage and that the Court

below has rightly done so and has placed reliance on **‘Sukhwant Singh & others v. Garja Singh & others’ 2013(40) RCR (Civil) 386; ‘Maharwal Khewaji Trust (Regd.) Faridkot v. Baldev Dass’ 2004(4) RCR (Civil) 760; and ‘M/s Sahara India Commercial Corp. Ltd. & others v. Uday Shankar Paul & others’ 2013(54) RCR (Civil) 1.**

The Hon’ble Supreme Court in **Maharwal Khewaji Trust’s case** (ibid) considering such an aspect, had drawn the conclusion that unless and until a case of irreparable loss or damage is made out by a party to the suit, the Court should not permit nature of the property being changed, which also includes alienation or transfer of the property, which will lead to loss or damage being caused to the party who may ultimately succeed and may further lead to multiplicity of proceedings. Thus, keeping in view the admitted stand of the signatures of its Managing Director Ashok Kumar Malhotra on the documents, this Court certainly draws an inference that it is a case where the Court ought to act and prevent irreparable loss or damages to the respondent and also to preserve the property besides preventing parties from entering into multiple litigation. The impugned order certainly has taken note of the fact that Sunita Mehta has been able to prima facie show that she has an interest in the property and if the

property is allowed to be alienated the same would result in suffering an irreparable loss to her and thus, has rightly passed the order of restraint preventing the petitioners from alienating or creating third party interest in the suit property till pendency of the suit. Thus, there appears to be no illegality or perversity in the impugned findings and the same needs to be upheld. The revision petition being without any merit, is hereby dismissed.

**(FATEH DEEP SINGH)**  
**JUDGE**

**May 4, 2018**

*rps*

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |