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

Date of Decision: 14.05.2018

1.Civil Revision No. 6010 of 2015

Pushpa Jindal

.....Petitioner

Vs

Rajender Singh and another

....Respondents

2.Civil Revision No. 6011 of 2015

Daljit Kaur

.....Petitioner

Vs

Rajender Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.H.S.Sirohi, Advocate
for the petitioner.

Mr. A.S.Syan, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

Vide this common order CR No. 6010 & 6011 of 2015 are being disposed of as common controversy is involved in both the petitions, therefore, the facts are taken from CR No. 6010 of 2015.

A civil suit No. 347 was filed on 04.09.2003/ 08.11.2004/ 19.08.2008 titled Rajinder Singh Versus Amrik Singh, in the Court of Civil Judge (Senior Division), Rupnagar for

possession by way of specific performance of agreement to sell dated 13.08.2002. The suit was decreed after due contest vide judgment and decree dated 17.11.2008. Defendant-Amrik Singh was directed to get the sale deed executed within two months in respect of suit property.

During pendency of the suit, Amrik Singh executed the sale deed dated 18.11.2005 in favour of Surjeet Singh. Mutation of said transfer was also sanctioned in favour of Surjeet Singh. Surjeet Singh in turn, transfer the property vide sale deed dated 09.05.2007 in favour of Gurmeet Kaur. Gurmeet Kaur further sold the property vide sale deed dated 05.03.2010 in favour of the petitioner and others i.e. Usha Malhotra, Daljit Kaur, Ruchi Mandewal.

The decree holder filed execution of the decree dated 17.11.2018. Petitioner filed objections under Order 21 Rule 97 CPC. The objections were dismissed on 30.05.2013. Execution first appeal was filed before the lower Appellate Court with a delay of four months. Co-vendee-Daljit Kaur also filed an appeal against the original judgment and decree and the same was also rejected on the ground of limitation.

Third Vendee-Usha Malhotra also challenged the original judgment and decree dated 17.11.2018 along with an application under Section 5 of the Limitation Act. Limitation was condoned but her appeal was dismissed on merits against which

RSA No. 1249 of 2015 was filed by Usha Malhotra. The aforesaid RSA was also dismissed on 19.08.2016. Learned counsel for the respondents submits that the order of aforesaid RSA has attained finality.

Learned counsel for the petitioner submitted that the petitioner is a bonafide purchaser from Gurmeet Kaur after seeing the title. Learned counsel for the respondent referred to Order 21 Rule 102 CPC and contended that the petitioner cannot maintain objections under Order 21 Rule 97 CPC being *vendee lis pendens*.

Evidently, the suit was filed in year 2003, defendant-Amrik Singh transferred the property in favour of Surjeet Singh, who in turn transferred the same in favour of Gurmeet Kaur. Gurmeet Kaur further transferred the property in favour of the petitioner and others. The cumulative effect of the order dated 30.05.2013 and the order passed by the lower Appellate Court can be seen to the effect that despite granting liberty to Usha Malhotra and Daljit Kaur for filing appeal against the main judgment and decree, they remained unsuccessful before the First Appellate Court. Even Usha Malhotra filed RSA No. 1249 of 2015 which was dismissed by the High Court.

Seeing the background of the case and nature of the objections filed by the petitioner, I am of the considered opinion that the petitioner is a *vendee lis pendens*, having purchased the

property from her Vendor-Gurmeet Kaur who in turn purchased the same from Surjeet Singh. Since the property was originally transferred by Amrik Singh in favour of Surjeet Singh, therefore, the petitioner is a vendee *lis pendens* at No. 4. The decree having been passed in 2008; has already attained finality with the dismissal of RSA No. 1249 of 2015.

It is settled principle of law that the bonafide purchaser has to be protected. In case of vendee *lis pendens*, rigor of law has to be applied. There is no equity in favour of the petitioner. Even though the limitation has to be liberally construed, but the facts and circumstances of the case do not warrant for condonation of such delay which is sought to be misused against the decree holder, particularly when the co-vendee-Usha Malhotra has already lost the litigation upto High Court in RSA No. 1249 of 2015.

Learned counsel for the petitioner further submitted that the respondent/decreed holder, is a fraudulent person and have cheated many persons and the decree obtained by fraud is nullity. The petitioner is not the plaintiff of the suit. She has not filed any suit for declaration on the basis of fraud. Petitioner is proved to be vendee *lis pendens* at No. 4. No such plea is available to the petitioner to assail the lawful decree passed in the year 2008, which has already attained finality.

Since the petitioner, Usha Malhotra and Daljit Kaur have derived their titles on the basis of sale deed dated 05.03.2010, therefore, I deem it appropriate not to grant any indulgence in the present petition.

The revision petitions are accordingly dismissed.

14th May, 2018
shabha

(RAJ MOHAN SINGH)
JUDGE

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