

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 20.01.2020****CR No.366 of 2020 (O&M)**

Ravi Bhushan Singla

...Petitioner

Vs.

Balwinder Singh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Abhishek Sharma, Advocate, for
Mr. Kamal K. Sharma, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

Even assuming that the entire sale consideration of Rs.5 lakhs had been paid up front for purchasing a plot admeasuring 250 sq. yards falling in the revenue estate of Village Daba, Hadbast No.262, Tehsil & District Ludhiana with the owner acting through his GPA, it cannot still be said that the petitioner has become the owner of the property by virtue of a registered sale deed and stamp duty paid since that fact has not come to pass. The petitioner holds only a sale agreement. The petitioner had filed a suit for specific performance of the agreement to sell dated 16.07.2007 in the year 2017 which appears rather late. But I refrain from making any comment on limitation as it is for the trial Court to decide.

The petitioner's application under Order 39 Rule 1 & 2 has been dismissed by the trial Court and his prayer has been denied to him for issuance of an order restraining the defendant/s from selling his property to 3rd party or changing its character. The failure of the application has led to an appeal which has been rejected by the learned Additional District Judge, Ludhiana on 18.11.2019. The learned Judge has made certain observations in his order which touch upon the merits of the case in the manner in which the observations have come, but I am sure that those will not influence the trial. However, the Judge has correctly applied the principle of *lis pendens* because a subsequent purchaser during the pendency of the suit can only step into the shoes of the defendants. Therefore, no irreparable loss can be said to have been occasioned to the plaintiff in declining temporary injunction to him. The balance of convenience is clearly not in favour of the petitioner since he is not yet the owner of the property and it is well settled that an injunction will not issue against the true owner. Owners' right of sale of his property is unquestionable and the presumption can only be dislodged by the best evidence proving to the contrary. Caveat emptor.

Accordingly, I find no merit in this petition whatsoever and would dismiss it in limine.

20.01.2020
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>