

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

CR-2383-2020 (O&M)
Date of decision: 18.12.2020

Soniya Garg

...Petitioner

Versus

Pawan Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Jain, Advocate for the petitioner.

Mr. Rohit Mittal, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff is the petitioner in this revision petition. She has filed a suit for specific performance of the agreement to sell dated 22.05.2019. As per agreement, the sale deed was to be executed on 08.08.2019. However, with mutual agreement, the date for execution of the sale deed was extended to 23.08.2019. The plaintiff has alleged to have paid a sum of Rs.30,00,000/- out of total sale consideration of Rs.89.70 lacs.

The defendant does not dispute the execution of the agreement to sell or receipt of the amount. However, it is pleaded that the plaintiff was never ready and willing to perform his part of the contract.

Along with the suit, an application under Order 39 Rules 1 and 2 was

filed for grant of temporary injunction from alienating the suit property.

Learned trial Court after prima facie finding that the plaintiff has failed to establish her readiness and willingness to perform her part of the contract, dismissed the application. An appeal filed by the plaintiff has been disposed of by observing that any alienation made during the pendency of the litigation is subject to the principle of lis-pendense. It has further been directed that if the defendant intends to alienate the property, he will have to disclose the pendency of the litigation to the intended purchaser in writing on the deed to be executed.

It may be noted here that prima facie finding arrived at by the learned trial Court to the effect that the plaintiff was not ready and willing, has not been set aside. Learned counsel for the petitioner while placing reliance on judgment in Ajit Kaur Vs. Phuman Singh, CR-6456-2010, decided on 21.01.2011, contends that the principle of lis pendense is not sufficient to protect the interest of the plaintiff. He submits that in appropriate cases, the Court is well within its power to grant injunction.

This Court has considered the submissions. The interest of the plaintiff has already been sufficiently protected by directing the defendant to disclose the pendency of the suit in the transfer deed to be made during the pendency of the suit. The principle of lis pendense also protects the plaintiff. Still further, in Ajit Kaur's case (Supra), the defendant had filed a revision petition against the concurrent orders passed by the Courts below granting injunction in favour of the plaintiff. In that context, while dismissing the revision petition, the Court made

observations. However, it is not necessary that in every case, the injunction must be granted. It all depends upon the facts and circumstances of the case.

In view thereof, there is no ground to interfere.

Accordingly, the present revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above-stated order.

18.12.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No