

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

C.R No. 73 of 2021

DATE OF DECISION : 23.03.2021

Hardev Singh

...Petitioner

Versus

Sarbjit Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ish Mahajan, Advocate,
for the petitioner.

Mr. Vikas Bali, Advocate,
for respondent No.1.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Grievance of the petitioner herein is qua an order dated 02.12.2020 passed by the trial Court, vide which his application under Section 151 CPC, for taking up the file on an unscheduled hearing with a further prayer to restrain the defendants from alienating the suit property, has been dismissed, vide detailed reasons. Application under section 151 was preferred during the pendency of already pending application under order 39 rule 1 and 2 of the CPC, filed along with main suit. Written statement being awaited, same is yet to be heard for final disposal.

2. Learned counsel for the petitioner/plaintiff strenuously argues that on one hand the defendants have been let off, without any restrain order on them, taking advantage of which, suit property has been sold after filing the civil suit. Petitioner/plaintiff has sought declaration to the effect that he is the owner in possession of the southern side of the constructed house.

3. Per contra, learned counsel for the respondents/defendants submits that property was sold way prior to filing of the civil suit.

4. Learned counsel for the respondents submits that he would not seek any adjournments in the trial Court and shall be filing written statement on or before the next date of hearing and thereafter, the already pending application under Order 39 Rules 1 and 2 CPC can be taken up by the trial Court, for its disposal.

5. Be that as it may, without commenting on merits of the case or making any observations on the sale of property, whether or not it was/is prior to filing of the suit, it is made clear that Rule of *Lis-Pendens* and *Buyer Beware* shall apply during the pendency of civil suit before the trial Court. Any sale made shall be subject to final outcome of the suit proceedings.

6. Needless to say that buyer of the suit property, in the event any sale agreement has been executed, cannot have a better title than the seller, which in any case, is under challenge and is subject to the outcome of the suit.

7. In view of the aforesaid, no grounds for interference by this Court are made out.

8. Dismissed.

9. It is, however, made clear that the trial Court shall proceed with disposing of the application under Order 39 Rules 1 and 2 CPC without being influenced by the observations made in the order impugned herein. The said observations shall be confined only to the disposal of application under Section 151 CPC.

MARCH 23, 2021
Shalini

(ARUN MONGA)
JUDGE