

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

CR-1511-2021 (O&M)

Date of decision: 12.08.2021

Jahir Abbas and others

...Petitioners

Versus

Pankaj Kumar Bansal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Ashish Aggarwal, Sr. Advocate with
 Mr. Gaurav Arora, Advocate for the petitioners
 Mr. Samarth Sagar, Addl. AG, Haryana

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The plaintiffs no. 1 to 4 assails the correctness of the order dated 27.07.2021, passed by the Additional Civil Judge, (Senior Division), Indri, District Karnal, while dismissing their application for permission to amend the plaint at the fag end of the trial.

The plaintiffs filed a suit in the year 2015 claiming declaration that the gift deed dated 07.07.2015 is illegal, null and void. They concluded their evidence on 06.12.2019. Thereafter, the defendants also examined four witnesses on their behalf. At that stage, the plaintiffs filed an application for permission to amend the plaint on the ground that the defendants have executed lease deed for a period of 99 years during pendency of the suit and therefore, the lessor and lessee are necessary parties.

Learned trial court as noticed above, dismissed the application keeping in view the fact that the trial of the suit is pending

for the last six years and the trial has already made substantial progress.

Learned senior counsel representing the petitioner contends that in order to do complete justice, it is necessary to assail the correctness of the lease deed executed. He submits that this will avoid multiplicity of the proceedings.

After having heard learned senior counsel representing the petitioners, this Bench is of the considered view that any transaction with respect to the suit property during the pendency of the suit is governed by the principle of lis pendens contained in Section 52 of the Transfer of Property Act, 1882, which provides adequate/sufficient safeguard to the parties to the suit. The provisions of Order 6 Rule 17 CPC ordinarily prohibits the amendment of the pleadings after the trial has commenced. In the present case, the challenge is to the gift deed and the trial has already made substantial progress. Any transaction between the defendants and third party is not binding on the rights of the plaintiffs, particularly, when these are during the pendency of the suit. Hence, no ground to exercise its jurisdiction under Article 227 of the Constitution of India is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

12.08.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE