

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

CR-1671-2018 (O&M)

Date of decision: 17.03.2022

Raghubir Singh

...Petitioner

Versus

Amar Nath and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.S.Manase, Advocate for the petitioner

Mr. Vipin Mahajan, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

Through this revision petition, the petitioner calls into question the correctness of the order passed by the trial court while dismissing an application under Order 1 Rule 10 Code of Civil Procedure, 1908. A suit for grant of decree of possession by way of specific performance of the agreement to sell dated 07.11.2012, with respect to a residential house, is pending before the trial court. The application, filed by the petitioner on the strength of a sale deed, which was executed during the pendency of the suit, has been ordered to be dismissed. The court, while dismissing the application, has observed that the petitioner has purchased the property during the pendency of the suit and therefore, is governed by the doctrine of lis pendens. The principle of lis pendens provides that all the transactions with regard to the suit property entered into by the parties or their representatives during the pendency of the suit are subservient to the result of the suit.

Heard learned counsel representing the parties at length and
with their able assistance perused the paper book.

There is no dispute between the parties that the sale deed was executed during the pendency of the suit. However, the petitioner claims that he has purchased the property pursuant to a prior agreement to sell before 07.11.2012. The petitioner also claims that Sh. Bhupinder Singh (original defendant in the suit) is a mischievous person and has defrauded various persons.

It is evident that if the suit filed by the plaintiff is ultimately decreed, the rights of the petitioner shall be adversely affected. Furthermore, there will be difficulty in executing the decree, if any, passed in favour of the plaintiff. If the petitioner is made a party defendant in the suit, the decree, if any, passed shall be enforceable against the petitioner. The petitioner would also get an opportunity to prove his plea. No doubt, learned counsel representing the plaintiff (respondent) contends that there is no agreement to sell in favour of the petitioner.

The Hon'ble Supreme Court in **Thomson Press (India) Ltd vs Nanak Builders & Investrs.P.Ltd. and others, 2013 (5) SCC 397**, after examining the relevant aspects, has held that it is in the interest of justice to allow such applications and permit the applicants to defend the suit. In view thereof, the application is allowed. The order dated 27.02.2018 is set aside. This Court has been informed that the petitioner had filed the application when the trial of the suit was at its fag end.

Keeping in view the aforesaid facts, the petitioner shall only be granted 30 days time from today to file the written statement. The

trial court would make sincere endeavours for disposal of the suit within a period of 9 months from today.

Disposed of.

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

17.03.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE