

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

CR-6529-2018 (O&M)

Date of decision: 31.10.2022

Sukhbir Singh

....Petitioner

Versus

Upkar Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sukhdev S Kanwal, Advocate for the petitioner

ANIL KSHETARPAL, J (Oral)

The correctness of an interlocutory order passed by the trial court, during the pendency of the suit, while allowing the application filed by the respondent no.2, to be impleaded as defendant no.2 in the pending suit, has been questioned in this revision petition. In a suit for possession by way of specific performance of the agreement to sell, filed by the petitioner, on an application filed by defendant no.2, who is a subsequent vendee, having purchased the property through a registered sale deed dated 22.11.2017, has been allowed, as the counsel representing defendant no.1 made a statement expressing his no objection, in his impleadment as a defendant. Learned counsel representing the plaintiff did not raise any objection at that particular time, though the order was passed in his presence.

Heard the learned counsel representing the petitioner. He contends that defendant no.2 is a purchaser who is governed by the rule of lis pendens and therefore, the court has erred in allowing the application for impleadment.

On a Court question, as to what prejudice has been caused

to the petitioner, the learned counsel representing the petitioner has failed to furnish any reasonable explanation.

Defendant no.2 is a subsequent purchaser. Once defendant no.2 has herself filed an application, which has been allowed, this Court does not find it appropriate to interfere. The trial court while passing a decree for possession by way of specific performance, would be in a position to pass an effective decree, even against the defendant no.2. Moreover, if the sale in favour of defendant no.2 is to be nullified, the amount paid by defendant no.2 to defendant no.1 shall be first charge on the balance payment to be made by the plaintiff. The court would be in a position to pass such an order which would decide the case comprehensively. Further, in the eventuality of the suit being decreed, defendant no.2 can be directed to join defendant no.1 as well, in executing the sale deed. Hence, no ground to interfere is made out.

Dismissed.

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

31.10.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE