

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

CR-7096-2018 (O&M)
Date of decision: 16.09.2022

KANWAR YOGRAJ SINGH JASWAL

..Petitioner

Versus

BHUPINDER KAUR @ DAVINDER KAUR THROUGH LRS AND

OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudhir Pruthi, Advocate, for the petitioner.
Mr. Vijay Rana, Advocate, for respondent no.2.
Mr. S.S.Behl, Advocate, for respondent no.3 and 4.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is a plaintiff in a suit for possession by way of specific performance of the agreement to sell. His consolidated application under Order VI Rule 17 CPC and under Order 1 Rule 10 read with Section 151 CPC has been dismissed by the trial Court.

The application was filed by the plaintiff as defendant no.3 and 4 sold the suit property to Sh. Nischal Sharma and Sh. Ashutosh Sharma vide sale deed dated 10.01.2017. This subsequent development necessitated the filing of the application. The trial Court dismissed the application on the ground that the sale deed has not been produced and the transfer of the property shall be governed by the rule of lis pendens.

The execution of the sale deed by defendant no.3 and 4 is not disputed. Hence, at the stage of the decision of the application, production of the sale deed was not necessary.

Undoubtedly, the sale by defendant no.3 and 4 in favour of Sh. Nischal Sharma and Sh. Ashutosh Sharma shall be governed by the rules of lis pendens. However, the court is required to take into consideration the fact that if the subsequent vendees are given an opportunity of hearing, it would benefit all the parties as well as give finality to litigation. Moreover, if the suit is decreed, the Court will be able to pass an effective decree and ensure its proper and faster execution by directing the subsequent vendees to join the remaining defendants in the execution of the sale deed pursuant to the decree. Moreover, the subsequent vendees shall be entitled to claim the refund amount from the amount payable by the plaintiff to the defendants in case they prove that they have been defrauded by defendant no.3 and 4. Notably, this will avoid multiplicity of the litigation and ensure speedy and effective delivery of justice.

Hence, the order dated 19.02.2018 is set aside. The application filed by the plaintiff under Order VI Rule 17 and under Order 1 Rule 10 CPC stands allowed.

The trial Court is requested to issue notice to the subsequent vendees i.e. Sh. Nischal Sharma and Sh. Ashutosh Sharma and thereafter, proceed with the case in accordance with law.

The revision petition is allowed.

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

September 16, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*