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

(254)

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Date of decision: - 29.05.2026

M/s Kanhiya Real Estate and Infrastructure**....Petitioner****Versus****Som Sharma and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Prateek Gupta, Advocate,
Ms. Vanshika Tuteja, Advocate, and
Mr. Abhinav Singla, Advocate
for the petitioner.

Mr. Ritesh Aggarwal, Advocate, and
Mr. Chankirat Singh Bakshi, Advocate
for respondents No.1 to 3.

Mr. Prashant Puri, Advocate
for respondents No.4 to 11.

VIKAS BAHL, J. (ORAL)**CHALLENGE IN THE PRESENT REVISION PETITION**

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 04.02.2026 (Annexure P-1) passed by the Civil Judge (Junior Division), Bathinda, vide which the application filed by the petitioner under Order 22 Rule 10 CPC and Order 1 Rule 10 read with Section 151 CPC has been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONER

2. Learned counsel for the petitioner has submitted that in the



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present case, respondents No.4 to 11 had filed a suit for permanent injunction for restraining the defendants/respondents No.1 to 3 from blocking any portion of passage measuring 20' x 304' approx. It is stated that they be provided passage leading from the public road to land, which was comprised in Khasra No.2283 min (0- 19), (Khewat No.2035, Khatauni No.10339; Khasra No.2283 min (1-18) Khewat No. 2037 Khatauni No.10341 and Khasra No.2219/2 min, situated in Patti Mehna, near Phase-III Green City/ residential colony, Bathinda. It is submitted that during the pendency of the suit, the present petitioner had purchased the entire holding of the plaintiffs vide six sale deeds i.e. 19.12.2024 (Annexures P-3 & P-4), 23.01.2025 (Annexure P-5), 11.04.2025 (Annexure P-6), 20.06.2025 (Annexure P-7) and 02.07.2025 (Annexure P-8). It is further submitted that since the petitioner had purchased the entire share of the plaintiffs and also had substantial interest in the dispute, thus, the petitioner had moved an application under Order 22 Rule 10 CPC and Order 1 Rule 10 read with Section 151 CPC for grant of leave/permission of the Court to continue with the suit and for impleading the petitioner as plaintiff, being assignee and transferee during the pendency of the suit. It is stated that the said application has been dismissed by the trial Court on surmises and conjectures and the same is in violation of the law laid by the Hon'ble Supreme Court in the case of **"Amit Kumar Shaw and another Vs. Farida Khatoon and another"**, ***reported as (2005) 11 Supreme Court Cases 403***. It is further submitted that the application filed by the petitioner be allowed and the impugned



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order be set aside.

ARGUMENTS ON BEHALF OF RESPONDENTS NO.1 TO 3

3. Learned counsel appearing for respondents No.1 to 3, on the other hand, has submitted that in the present case, the petitioner is also seeking to be impleaded as a party under Order 1 Rule 10 CPC, which cannot be permitted as the petitioner is a *lis pendens* purchaser and cannot be made a party under Order 1 Rule 10 CPC. It is further submitted that the plaintiffs have already been following up the case and the case is presently listed for the evidence of the plaintiffs and thus, the impleadment of the petitioner would unnecessarily delay the proceedings. It is argued that the impugned order has been rightly passed and the same deserves to be upheld and at any rate, the petitioner can only join as a party from the present stage of the suit and should be bound by the pleadings which have already been made in the suit. It is submitted that the petitioner is seeking to substitute the plaintiffs which is not permissible as the plaintiffs are already following up the case and are leading their evidence.

ARGUMENTS ON BEHALF OF RESPONDENTS NO.4 TO 11

4. Learned counsel for respondents No.4 to 11/plaintiffs has submitted that the plaintiffs have no objection if the petitioner is either impleaded as party or is substituted in place of the plaintiffs as they have sold their entire interest to the petitioner.

ARGUMENTS IN REBUTTAL

5. Learned counsel for the petitioner, in rebuttal, has submitted



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that in view of the strong objections raised by the learned counsel for the defendants/respondents No.1 to 3, the petitioner would be satisfied in case it is impleaded as plaintiff No.9 and has also submitted that it would join the proceedings from the stage at which the case had already reached and has prayed that the memo of parties in the plaint be amended in view of the petitioner being impleaded as plaintiff no.9 as per the provision of Order 22 Rule 10 CPC.

ANALYSIS AND FINDINGS

6. This Court has heard learned counsel for the parties and has perused the paper-book.

7. Admittedly, respondents No.4 to 11 had filed a suit for permanent injunction. The headnote of the suit is reproduced herein below: -

“Suit for permanent injunction for restraining defendants from blocking any portion of passage measuring 20' x 304' approx, running through Khasra No.2282 (shown as EF in yellow colour in the site plan), leading from public road to land of the plaintiffs comprising in Khasra No.2283 min (0- 19), (Khewat No.2035, Khatauni No.10339; Khasra No.2283 min (1-18) Khewat No. 2037 Khatauni No.10341 and Khasra No.2219/2 min, situated in Patti Mehna, near Phase-III Green City/ residential colony, Bathinda, by raising any type of construction in the above said passage (shown as EF in yellow colour in the site plan).”

A perusal of the plaint would show that a prayer was made by the plaintiffs for restraining the defendants from blocking any portion of the passage which was shown as EF in the site plan and was leading from public road to the land of the plaintiffs comprised in khasra, the



details of which have been mentioned in the headnote of the plaint.

8. Written statements were filed by the defendants and replication was also filed and the case is stated to be at the stage of evidence of the plaintiffs. The present petitioner had filed an application under Order 22 Rule 10 CPC and Order 1 Rule 10 read with Section 151 CPC for grant of leave/permission to the applicant/petitioner to continue the suit, as the plaintiffs had assigned and transferred their rights in favour of the petitioner by virtue of six registered sale deeds. The details of the sale deeds were given in the said application and a perusal of the said application would show that there are in all six registered sale deeds as per which the petitioner had purchased the entire share of the plaintiffs. The said sale deeds were dated 19.12.2024, 23.01.2025, 11.04.2025, 20.06.2025 and 02.07.2025. The said purchases were made during the pendency of the suit as the suit was filed in the year 2020. The fact that the plaintiffs had sold the said property to the petitioner has not been disputed before this Court by the counsel for the plaintiffs. It is thus apparent that by virtue of the registered sale deeds the rights of the plaintiffs in the suit property stood assigned to the petitioner. In the said circumstances, it was in the interest of justice that the petitioner should have been impleaded as plaintiff No.9 in the suit under the provision of Order 22 Rule 10 CPC. Order 22 Rule 10 CPC reads as under: -

“10. Procedure in case of assignment before final order in suit.-(1) In other cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the Court, be continued by or against the person to or upon



whom such interest has come or devolved.

(2) The attachment of a decree pending an appeal therefrom shall be deemed to be an interest entitling the person who procured such attachment to the benefit of sub-rule (1).”

A perusal of the above would show that in case of an assignment, creation or devolution of any interest during the pendency of a suit, the said suit can be continued by a person to whom the said interest has devolved.

9. The Hon'ble Supreme Court in the case of ***Amit Kumar Shaw (supra)*** has observed that a transferee pendente lite is vitally interested in the litigation, more so, when the entire interest of the party is acquired by him, as the party who sold the interest may not pursue the case diligently and may collude with the other party. It was further observed that under the provision of Order 22 Rule 10 CPC, no detailed inquiry at the stage of granting leave is contemplated and in case the Court is *prima facie* satisfied, the application for impleadment under Order 22 Rule 10 CPC should ordinarily be allowed. The relevant portion of the said order is reproduced herein below: -

“12. Under Order 22, Rule 10, no detailed inquiry at the stage of granting leave is contemplated. The court has only to be prima facie satisfied for exercising its discretion in granting leave for continuing the suit by or against the person on whom the interest has devolved by assignment or devolution. The question about the existence and validity of the assignment or devolution can be considered at the final hearing of the proceedings. The court has only to be prima facie satisfied for exercising its discretion in granting leave for continuing the suit.

13. In this connection, the provisions of Section 52 of the



Transfer of Property Act, 1882 which has been extracted above may be noted.

14. An alienee pendente lite is bound by the final decree that may be passed in the suit. Such an alienee can be brought on record both under this rule as also under Order 1 Rule 10. Since under the doctrine of lis pendens a decree passed in the suit during the pendency of which a transfer is made binds the transferee, his application to be brought on record should ordinarily be allowed.

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16.A transferee pendente lite to the extent he has acquired interest from the defendant is vitally interested in the litigation, where the transfer is of the entire interest of the defendant; the latter having no more interest in the property may not properly defend the suit. He may collude with the plaintiff. Hence, though the plaintiff is under no obligation to make a lis pendens transferee a party; under Order 22 Rule 10 an alienee pendente lite may be joined as party. As already noticed, the court has discretion in the matter which must be judicially exercised and an alienee would ordinarily be joined as a party to enable him to protect his interests. The court has held that a transferee pendente lite of an interest in immovable property is a representative-in-interest of the party from whom he has acquired that interest. He is entitled to be impleaded in the suit or other proceedings where his predecessor-in-interest is made a party to the litigation; he is entitled to be heard in the matter on the merits of the case.

17. In the instant case, the applications for substitution were filed by the respective appellants in the second appeals which are still pending on the file of the High Court though it was filed in the year 1993. The appellants have properly, sufficiently and satisfactorily explained the delay in approaching the Court. We see bona fide in their explanation in not coming to the Court at the earliest point of time. Therefore, the appellants who are transferees pendente lite should be made as parties to the pending



second appeals as prayed for by them. In our opinion, the High Court has committed serious error in not ordering the applications for substitution filed by the appellants. In our view, the presence of the appellants is absolutely necessary in order to decide the appeals on merits. Since the High Court has committed error by rejecting the appellants' applications for substitution treating the same as additional parties and thereby rendering the appellants non-suited, we have no hesitation in setting aside the said orders and permit the appellants to come on record by way of substitution as prayed for. The High Court proceeded on a wrong premise that the appellants had made the application for addition of party whereas the application under consideration was for substitution as the owner had sold the suit property to the appellants and had no interest in the pending litigation.

18. In our opinion, the presence of the appellants was absolutely necessary since the appellants are the only persons who have got subsisting right, title and interest in the suit. The appellants are at liberty to contest the matter on merits.”

10. In the above-said judgment, the Hon'ble Supreme Court had observed that the High Court had committed a serious error in not allowing the application although the presence of the appellants therein was necessary as they had subsisting interest in the suit property. It would be relevant to note that in the said case the application under Order 22 Rule 10 was filed at the stage of second appeal although the transfer had taken place at the time the suit was pending. The law laid down by the Hon'ble Supreme Court would apply on all fours in the present case and rather, the facts of the present case are on a higher footing, inasmuch as, the suit is at the initial stage and it is only the evidence of the plaintiffs which is being recorded. The trial Court had dismissed the application on surmises and conjectures and by exercising the powers perversely and

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thus, the said order deserves to be set aside.

11. In order to meet the concern of the counsel for the defendants/respondents No.1 to 3, it is clarified that the application of the petitioner is being allowed under Order 22 Rule 10 CPC and not under Order 1 Rule 10 CPC and thus, the petitioner would be allowed to pursue the suit along with the other plaintiffs by being impleaded as plaintiff No.9 from the stage at which the suit is presently pending. The said impleadment would also be in the interest of respondents No.1 to 3/defendants, inasmuch as, the said impleadment would fully and finally adjudicate all the disputes between the parties and the judgment passed would be binding on all the parties concerned, including the petitioner as well as the plaintiffs. The same would also help in avoiding multiplicity of litigation.

12. Keeping in view the above-said facts and circumstances, the impugned order dated 04.02.2026 (Annexure P-1) is set aside and the application filed by the petitioner under Order 22 Rule 10 CPC read with Order 1 Rule 10 CPC is partly allowed to the extent that the petitioner is ordered to be impleaded as plaintiff No.9 under the provision of Order 22 Rule 10 CPC.

May 29, 2026
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
Yes