



296 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4925-2025 (O&M)
Date of decision : 01.09.2025

Om Parkash Petitioner

Versus

State of Haryana & ors. Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Tarun Hans, Advocate
for the petitioner.

Mr. Paramjeet Singh, DAG, Haryana
for respondents No.1 to 3.

Mr. Ajay Jain, Advocate
for respondents No.4(ii), (iv) & (v).

PANKAJ JAIN, J. (ORAL)

1 Challenge is to the order dated 15.07.2025 passed by Civil Judge (Junior Division), Hisar whereby applications filed by plaintiff under Order I Rule 10 CPC and under Order VI Rule 17 CPC stands dismissed.

2 Plaintiff filed suit for mandatory injunction directing the defendants to correct the impugned mutations by way of exhibiting share of plaintiff and proforma defendants. Further challenge was to Release Deed dated 12.10.2012 and Transfer Deed dated 24.07.2018 and the consequential mutation.



3 During the pendency of the suit, plaintiff claims that portion of the suit property has been further transferred. By way of application filed under Order I Rule 10 CPC he sought impleadment of subsequent transferee and also sought permission to amend the pleadings. The applications have been dismissed by the Trial Court on the ground that the transfers *pendente lite* are hit by Section 52 of the Transfer of Property Act, 1882. The objective behind the doctrine of *lis pendens* is to prevent the defeat of the ends of justice by the transfer of the suit property during the pendency of the *lis*.

4 Counsel for the petitioner has assailed the findings recorded by the Courts below. Reliance is being placed upon ratio of law laid down in the case of *Yogesh Goyanka Vs. Govind & ors., 2024 (4) RCR (Civil) 53* wherein the Supreme Court held that it is in the interest of transferee *pendente lite* that they should be allowed to be impleaded as parties to the *lis*. Counsel thus submits that the Trial Court ought to have allowed the applications filed by the plaintiff.

5 *Per contra*, Mr. Jain, Advocate for respondents No.4(ii), (iv) and (v) submits that the application under Order I Rule 10 CPC was not maintainable. The application ought to have been filed under Order XXII Rule 10 CPC as the subsequent purchasers are assignees and not necessary party. In order to hammer forth his contention he relies upon judgment passed by Supreme Court in *Jagdish Chander & another Vs. Om Piari & ors., 2008(4) RCR (Civil) 56*. He further relies upon *Nirmal Singh & ors. Vs. Tarsem Singh & ors., 2015 (2) RCR (Civil) 679* to submit that a single



application for twin relief under Order I Rule 10 CPC and Order VI Rule 17 CPC was not maintainable.

6 I have heard learned counsel for the parties and have gone through the records of the case.

7 There cannot be any dispute with the proposition that the effect of transfers *pendente lite* are taken care of by Section 52 of the 1882 Act which saves the rights of the parties to the *lis* from such transfers. However, at the same time it also cannot be denied that absence of transferee *pendente lite* often leads to multiplicity of litigation. At the time of execution of the final decrees as multiple objections are filed by subsequent purchasers which clogs the process of execution of decree. The precise issue has been dealt with by the Supreme Court in the case of **Yogesh Goyanka (supra)**, observing as under :-

“16. The fulcrum of the dispute herein concerns the impleadment of a transferee pendente lite who undisputedly had notice of the pending litigation. At the outset, it appears pertinent to reiterate the settled position that the doctrine of lis pendens as provided under Section 52 of the Act does not render all transfers pendente lite to be void ab-initio, it merely renders rights arising from such transfers as subservient to the rights of the parties to the pending litigation and subject to any direction that the Court may pass thereunder.

17. Therefore, the mere fact that the RSD was executed during the pendency of the Underlying Suit does not automatically render it null and void. On this ground alone, we find the Impugned Order to be wholly erroneous as it employs Section 52 of the Act to nullify the RSD and on that basis, concludes



that the impleadment application is untenable. Contrary to this approach of the High Court, the law on impleadment of subsequent transferees, as established by this Court has evolved in a manner that liberally enables subsequent transferees to protect their interests in recognition of the possibility that the transferor pendente lite may not defend the title or may collude with the plaintiff therein [See the decision of this Court in Amit Kumar Shaw vs. Farida Khatoon, (2005) 11 SCC 403 & A. Nawab John vs. V.N. Subramaniam, (2012) 7 SCC 738].”

8 So far as the objection raised by Mr. Jain, Advocate with respect to non-maintainability of single application is concerned, it cannot be laid down as inelastic rule. It needs to be seen in facts of case whether the amendment sought is in consequence of the impleadment of party or not. Usually, where the amendment sought is consequential to the impleadment of a party such objection cannot be sustained.

9 In view of above, this Court finds that the impugned order passed by the Trial Court cannot be sustained and deserves to be set aside.

10 Application filed by the plaintiff seeking impleadment of transferee *pendente lite* and consequential amendment in the pleadings is allowed. Trial Court shall afford an opportunity to the newly impleaded defendant to file written statement as also to defendants No.1 to 4 to amend their pleadings.

11 Revision petition stands allowed.

01.09.2025

Pooja Sharma-I

Whether speaking/reasoned:
Whether reportable:

**(PANKAJ JAIN)
JUDGE**

Yes/No
Yes/No