

*Before Mehinder Singh Sullar, J.*

**SUKHDEV SINGH AND OTHERS,—Appellants**

*versus*

**MOHAN SINGH AND OTHERS,—Respondents**

**RSA No.4314 of 2008**

2nd August, 2011

*Code of Civil Procedure, 1908 - O.1 Rl. 10, - Transfer of Property Act - S.41 - Defendant No.1 got land mutated in her favour on the basis of a false and illegal Will - Defendant No. 1 sold land to defendant No.2&3 - Plaintiff filed suit for declaration/possession/permanent injunction against contesting defendants - During pendency of suit land further sold - Subsequent vendee not parties to the civil suit - Suit decreed in favour of plaintiff - Defendants filed appeal - Subsequent vendee filed application under order 1 Rule 10 - Permitted to join proceedings for limited purpose to argue the appeal - Challenge thereto - Held, that subsequent vendees have no independent right to contest claim of the plaintiff or lead additional evidence.*

*Held*, That this is not the end of the matter. Admittedly, the present appellants subsequent (second) vendees were claimed to have purchased the land in dispute, during the pendency of the suit, from the vendees of Ranbir Kaur (defendant No.1) and so on and so forth. That means, they have entered and stepped into the shoes of their respective vendors. In that eventuality, they have no legal independent right to file a separate written statement, to adduce additional evidence and to contest the claim of the plaintiff.

(Para 23)

*Further held*, That to my mind, if the submission of learned counsel for the appellants-subsequent (second) vendees that they are entitled to lead evidence is accepted, then it will amount to re-opening the entire matter, without being their any locus standi. Tomorrow, they may further transfer the land to third subsequent vendees and so on and so forth, then, they

will again claim a right to adduce additional evidence. In this manner, it will amount to encouraging such avoider of law, who subsequently purchased the land in dispute during the pendency of the suit, in order to illegally defeat the rights of the plaintiff. Not only that, it will further give rise to variety of multiplicity of proceedings and there will be no end of anything (litigation).

(Para 24)

*Further held,* Once, it is proved that the appellants-subsequent (second) vendees have subsequently purchased the land in dispute, during the pendency of the suit and their transactions are hit by rule of lis-pendens, then question of their bona fide purchasers and protection under section 41 of the T.P.Act did not arise at all, as urged on their behalf. Therefore, the contrary arguments of their counsel "stricto sensu" deserve to be and are hereby repelled under the present set of circumstances.

(Para 26)

Gurcharan Singh Gandhi, Advocate, *for the appellants.*

S.S.Tiwana, Advocate for respondent No.1.

**MEHINDER SINGH SULLAR, J. (ORAL)**

(1)As the Courts below duly recapitulated and discussed the pleadings and evidence brought on record by the parties in detail, therefore, there appears to be no necessity to again reproduce and repeat the same in the instant regular second appeal in this context. However, the epitome of the facts, culminating in the commencement, relevant for deciding the present appeal and emanating from the record, is that Mohan Singh son of Mehnga Singh respondent No.1-plaintiff (for brevity "the plaintiff"), filed the suit against Ranbir Kaur wife of Jeet Singh, Karnail Singh, Niranjana Singh, Mohinder Ram sons of Puran Ram respondent Nos.6 to 9-defendants No.1 to 3 & 3-A (for short "the contesting defendants") and other defendants, for a decree of declaration and possession, to the effect that he (plaintiff) and defendants No.4 to 7 are the owners and in possession, in equal shares of the land in dispute, being the legal heirs of Mehar Singh son of Hari Singh (since deceased) and the alleged impugned Will dated 15.6.1992, executed by him in favour of Ranbir Kaur (defendant No.1), mutation No.652 entered in pursuance thereof and the sale deeds dated 17.12.1992 and

7.12.1993 executed by her in favour of contesting defendants and resultant mutations are wrong, illegal, null, void and not binding on their rights, with a consequential relief of permanent injunction restraining the contesting defendants from alienating the suit land in any manner.

(2) The case set up by the plaintiff, in brief in so far as relevant, was that Mehar Singh son of Hari Singh son of Sultan Singh was the owner and in possession of the land in dispute and the plaintiff is the son of Mehnga Singh, the real brother of Mehar Singh, who expired on 17.7.1992. His wife Parkash Kaur was stated to have died 5/6 years, prior to his death. The inter-se relations between the parties are shown in the pedigree table as under:-

Sultan Singh  
|  
|  
Hari Singh

Babu Singh (died issueless)	Banta Singh (died issueless)	Mehnga Singh   	Mehar Singh (died issueless)
Mohan Singh (plaintiff)	Sawaran Kaur (Deft. No.4)	Gian Kaur (Deft. No.5)	Bax Kaur (Deft. No.6)
			Surender Kaur (Deft.No.7)

(3) In this manner, after the death of Mehar Singh, the plaintiff and defendant Nos.4 to 7 were stated to have inherited his estate, in natural succession. The plaintiff claimed that defendant No.1 did not marry with deceased Mehar Singh at any time, as he was about 70 years of age at the time of his death. She has illegally got entered and attested the impugned mutation No.652 in her favour showing herself to be the widow of deceased Mehar Singh and on the basis of false and illegal Will dated 15.6.1992. Taking the benefit of this mutation, defendant No.1 had illegally sold away the land, by virtue of registered sale deed dated 17.12.1992 to defendant Nos.2 and 3 and they further got entered mutation No.660 in pursuance thereof. Sequelley, defendant No.1 was claimed to have illegally sold away the land, by way of registered sale deed dated 7.12.1993 in favour of defendant No.3-A, out of the suit land, without any legal right.

4. Levelling a variety of allegations and narrating the sequence of events, in all, according to the plaintiff that he alongwith defendant Nos.4 to 7 are entitled to inherit the property in dispute after the death of Mehar Singh in natural succession. The alleged Will in favour of defendant No.1, the indicated sale deeds and resultant mutations in pursuance thereof are termed to be illegal, null, void and not binding on their (plaintiff & defendant Nos.4 to 7) rights. They asked the contesting defendants to admit their claim, but in vain, which necessitated the plaintiff to file the present suit. On the basis of aforesaid allegations, the plaintiff filed the suit for a decree of declaration/possession/permanent injunction against the contesting defendants, in the manner described hereinbefore.

(5) As no body appeared to contest the suit on behalf of defendant Nos.3-A and 4 to 7, therefore, *exparte* proceedings were ordered against them. However, the contesting defendant Nos.1 to 3 refuted the claim of the plaintiff and filed their separate written statements, *inter-alia* pleading certain preliminary objections of, maintainability of the suit, cause of action and locus standi of the plaintiff. The contesting defendants pleaded that defendant No.1, being the legally wedded wife of deceased Mehar Singh, became the owner and in possession of the land in dispute, on the basis of the Will and mutation to that effect was also sanctioned in pursuance thereof. Defendant No.1, being the absolute owner and in possession, has rightly sold the suit land to contesting defendant Nos.2 and 3, vide indicated sale deeds and the plaintiff and defendant Nos.4 to 7 have got no right, title and interest in it. It will not be out of place to mention here that the contesting defendants have stoutly denied all other allegations contained in the plaint and prayed for dismissal of the suit.

(6) Controverting the allegations of the written statements and reiterating the pleadings contained in the plaint, the plaintiff filed the replication. In the wake of pleadings of the parties, the trial Court framed the following issues for proper adjudication of the case:-

1. *Whether plaintiff alongwith proforma defendants are owners of the suit land being legal heirs of deceased, Mehar Singh?OPP*
2. *Whether Will-deed dt.15.6.1992 in favour of defendant No.1 and resultant mutation No.652 in her favour are legal and valid ?OPD (Reframed on 12.2.2000 and not pressed)*

3. *If issue No.2 is not proved by affirmative, whether sale-deed executed by defendant No.1 in favour of defendant Nos.2 and 3 on 17.12.1992 alongwith its mutation and sale deed executed by defendant No.1 in favour of defendant No.3-A on 7.12.1993 are also illegal and null and void and liable to be set aside?OPP*
4. *Whether defendants No.1 to 3 are in illegal and unauthorized possession of the suit land?OPP*
5. *If above issue No.1 to 4 are proved in affirmative, whether the plaintiff and defendants No.4 to 7 are entitled to a decree for possession of the suit land?OPP*
6. *Whether the suit is not maintainable in the present form?OPD*
7. *Whether plaintiff has no cause of action to file the present suit?OPD*
8. *Whether the plaintiff has no locus standi to file the present suit?OPD*
9. *Whether the suit is bad for mis-joinder and non-joinder of necessary parties?OPD*
10. *Whether the defendants No.2 and 3 are bonafide purchasers for consideration and are in possession of 17 Marlas of land ? If so, its effect?OPD*
11. *Relief.*

(7) Thereafter, in order to substantiate their respective pleaded stands, the parties to the lis, produced on record the oral as well as documentary evidence.

(8) The trial Court, after taking into consideration the entire oral as well as documentary evidence on record, decreed the suit of the plaintiff, by means of judgment and decree dated 1.3.2000, the operative part of which is (para 28) as under:-

*“On the basis of reasons recorded here-in-before while deciding different issues particularly issue No.1, 7 & 8, suit filed by the plaintiff, succeeds and decreed with costs to the effect*

*that the plaintiff with proforma defendants No.4 to 7 are owners in equal shares of the suit land being legal heirs of deceased Mehar Singh and impugned will dated 15.6.1992 and mutation No.652 with impugned sale-deed dated 17.12.1992, mutation No.660 as well as sale-deed dated 7.12.1993 in favour of defendants No.2, 3 and 3-A are hereby declared illegal, null and void and are set aside. However, a decree for possession of the suit land is passed in favour of the plaintiff and defendants No.4 to 7 and defendants No.1 to 3 and 3-A are hereby permanently restrained from alienating the suit land in any manner as a consequential relief. Decree-sheet be prepared accordingly and file be consigned to the record-room after due compliance.”*

(9) Dis-satisfied with the decision of the trial Court, Ranbir Kaur (defendant No.1) and other defendants filed the appeal before the first appellate Court. It will not be out of place to mention here that Sukhdev Singh son of Bachan Singh, Mohinder Ram and Joginder Ram sons of Mundri Ram appellants subsequent (second) vendees were not the parties in the suit before the trial Court. During the pendency of the suit, they were claimed to have subsequently purchased some land out of the suit land, from the alleged vendees of Ranbir Kaur (defendant No.1). Although their presence was not at all essential, as they were allegedly stepped into the shoes of the alleged vendees of Ranbir Kaur, but still, the Ist appellate Court, in the wake of their application under Order 1 Rule 10 CPC, permitted them to join the proceedings, only for a limited purpose, to argue the appeal, through the medium of order dated 16.12.2003. However, the Ist Appellate Court dismissed the main appeal, by way of judgment and decree dated 22.12.2003.

(10) Aggrieved by the judgments and decrees of the Courts below, Hari Ram and others and subsequent (second) vendees of the suit property, filed RSA bearing No.681 of 2004, which was accepted and the matter was remanded back to Ist appellate Court by a Coordinate Bench (Permod Kohli, J.) of this Court, by virtue of order dated 12.3.2008, which, in substance, is as under:-

*“Appellants were impleaded as party, during the final hearing of the appeal and the appeal was posted for arguments but*

*without affording any opportunity, the appeal stands decided. From the lengthy judgment of the Lower Appellate Court, it appears that judgment had already been drawn and it was only announced on 22.12.2003, without affording any opportunity what to say of an adequate and reasonable opportunity to argue. Lower Appellate Court had the jurisdiction to decide the question of impleadment of the appellants during the appeal but once the Lower Appellate Court has exercised the judicial discretion and impleaded the party/appellant, it was obligatory upon the Lower Appellate Court to have provided adequate and **reasonable opportunity to argue the appeal**. That having not been done, the order is not sustainable in law.*

*Without going into the merits of the controversy for which Mr.Sandhu has addressed lengthy arguments, I am constrained to set aside the judgment dated 22.12.2003, on the above mentioned grounds, the impugned judgment and decree is hereby set aside and appeal remanded to the Lower Appellate Court for fresh judgment after hearing of the parties including the appellant's herein.*

*Parties to appear before the Lower Appellate Court (Additional District Judge, Kaithal) on 28.04.2008.”*

(11) Sequelly, it would be seen that the appeal was remanded back by this Court to the first appellate Court, only for a limited purpose of providing opportunity to the appellants-subsequent (second) vendees, to argue the appeal. Thereafter the remand of the matter and after providing them adequate opportunity to argue the appeal, the first appellate Court again dismissed the appeal, by means of impugned judgment and decree dated 31.7.2008.

(12) It is not a matter of dispute that other defendants accepted the decision of the Courts below, but only appellants-subsequent (second) vendees Sukhdev Singh son of Bachan Singh, Mohinder Ram and Joginder Ram sons of Mundri Ram (who were not the parties in the suit before the trial Court), did not feel satisfied with the impugned judgments and the decrees and preferred the instant regular second appeal. That is how I am seized of the matter.

(13) At the very outset, assailing the impugned judgment and decree, the learned counsel for the appellants-subsequent (second) vendees urged that as the first appellate Court did not provide them the adequate opportunity of hearing, which includes the right to lead evidence, therefore, their case was prejudiced. The argument is that they are the bona fide purchasers from the vendees of Ranbir Kaur (defendant No.1) and their sale deeds are protected under section 41 of the Transfer of Property Act (hereinafter to be referred as “the TP Act”) and since the pendency of the suit was not in their knowledge, so, the doctrine of lis pendens will not be attracted, but the Ist appellate Court illegally negated their claim. Thus, he prayed for acceptance of the appeal.

(14) On the contrary, hailing the impugned judgment and decree, the learned counsel for respondent No.1-plaintiff, contended with some amount of vehemence that this Court has only remanded the appeal, to enable the appellant subsequent (second) vendees to argue the matter and did not allow them to adduce evidence, so the first appellate Court has rightly ignored their plea of leading additional evidence in this respect. The contention further proceeds that as Ranbir Kaur (defendant No.1) was not proved to be the wife of Mehar Singh (deceased), question of executing the Will in her favour by him, did not arise, therefore, neither she had any alienable right in the land in dispute nor any title could legally be passed on her vendee and the appellants, who are subsequent second vendees, cannot derive any title of the suit land, from their vendors. They cannot be held to be bonafide purchasers, in any manner and since they have purchased the land in dispute, during the pendency of the suit, so, the principle of lis pendens is fully applicable under the present set of circumstances. Thus, he prayed that no interference in the impugned judgment and decree is warranted.

(15) Having heard the learned counsel for the parties, having gone through the record with their valuable assistance and after bestowal of thoughts over the entire matter, to my mind, there is no merit in the instant appeal in this respect.

(16) Ex facie, the argument of the learned counsel that as the first appellate Court did not allow the appellants-subsequent (second) vendees to adduce the additional evidence after remand of the appeal, therefore,



the impugned judgment and decree are illegal, is neither tenable nor the observations of the Hon'ble Apex Court in case **District Collector, Srikakulam & Ors. versus Bagathi Krishna Rao & Anr. (1)**; this Court in cases **Smt. Vidya Devi versus Shruti Choudhry and others (2)**; **Gram Panchayat Garhi versus Dharambir and others (3)**, wherein it was observed that the application for impleadment of necessary parties under Order 1 Rule 10 CPC can be filed at any stage of the proceedings and dominus litis of the suit is not an absolute rule, while deciding the application under Order 1 Rule 10 CPC, are at all applicable to the present controversy, because the appellants subsequent (second) vendees have already been impleaded as parties (appellants) by the first appellate Court, vide order dated 16.12.2003.

(17) Likewise, possibly no one can dispute with regard to the observations of Jammu and Kashmir High Court in case **Sham Lal versus Rajinder Kumar Modi and others (4)**, that the word "hearing" includes recording of the evidence", but the same would not come to the rescue of appellants-subsequent (second) vendees in this context.

(18) Above being the position on record, now the short and significant question, though important that arises for determination in this appeal is, as to whether the appellants-subsequent (second) vendees have any independent right to contest the claim of the plaintiff or not?

(19) Having regard to the rival contentions of the learned counsel for the parties, to me, the answer must obviously be in the negative, as they (appellants subsequent (second) vendees) have no legal right in this respect.

(20) As is evident from the record that Mehar Singh, who died issueless, was the owner of the property in dispute. Plaintiff Mohan Singh and defendant Nos.4 to 7 are the children of Mehnga Singh, real brother of Mehar Singh son of Hari Singh. They claimed their entitlement in the property of deceased Mehar Singh, in natural succession. On the contrary, Ranbir Kaur (defendant No.1) asserted her right on the basis of will dated 15.6.1992 allegedly executed by Mehar Singh in her favour and mutation

- 
- (1) 2010(3) RCR (Civil) 318
  - (2) 2009(5) RCR (Civil) 751
  - (3) AIR 1998 Pb. & Hy. 165
  - (4) AIR 1993 J&K 50

entered in pursuance thereof. Taking the undue benefit of mutation, she sold the land in dispute to defendant Nos.1 to 3 and 3A, vide registered sale deeds dated 17.12.1992 and 7.12.1993. The Courts below accepted the claim of the plaintiff and negated the plea of contesting defendants.

(21) It is not a matter of dispute that the plaintiff filed the present suit on 15.3.1994. The appellants-subsequent (second) vendees were not the parties in the suit before the trial Court. They were stated to have purchased the suit land, during the pendency of the present suit from the vendees of Ranbir Kaur (defendant No.1). Mohinder Ram, vendee of Ranbir Kaur further sold the land to one Kamlesh, by virtue of registered sale deed dated 7.6.1996 and Kamlesh further sold the same to appellant Sukhdev Singh, by means of registered sale deed dated 24.12.1997. Similarly, the vendees of Ranbir Kaur (defendant No.1) were stated to have further alienated the property in dispute, by way of registered sale deeds dated 14.11.1996, 22.11.1996 and 15.5.1997.

(22) What is not disputed here is that in the wake of application under Order 1 Rule 10 CPC, the subsequent (second) vendees were impleaded as appellants in the interest of justice by the Ist appellate Court, only for a limited purpose to argue the appeal, through the medium of order dated 16.12.2003. As reproduced above, even this Court observed that the first appellate Court ought to have provided adequate and reasonable opportunity to them to argue the appeal. This Court, vide order dated 12.3.2008 did not permit them (appellants-subsequent second vendees) to lead any additional evidence in this behalf and perhaps rightly so, because what to talk of their vendors, even vendor of their (original) vendors i.e. Ranbir Kaur (defendant No.1) did not have any alienable right to sell the property in dispute to the contesting defendants.

(23) This is not the end of the matter. Admittedly, the present appellant subsequent (second) vendees were claimed to have purchased the land in dispute, during the pendency of the suit, from the vendees of Ranbir Kaur (defendant No.1) and so on and so forth. That means, they have entered and stepped into the shoes of their respective vendors. In that eventuality, they have no legal independent right to file a separate written statement, to adduce additional evidence and to contest the claim of the plaintiff. The appellants-subsequent (second) vendees, on being impleaded

as parties, cannot legally claim any independent right to contest the suit. They can only watch their interest alongwith other defendants, from whom, they had purchased the land, during the pendency of the suit, as contemplated under Order 22 Rule 10 CPC and doctrine of lis-pendens. Reliance in this regard can be placed to the judgment of Hon'ble Supreme Court in case **Dhanna Singh versus Baljinder Kaur (5)** and this Court in case **Jaswinder Singh versus Sohan Singh and others (6)**, wherein it was ruled that "the subsequent purchaser does not get any right to lead any evidence, as he stepped into the shoes of the first defendant, who has given up the right to lead evidence."

(24) To my mind, if the submission of learned counsel for the appellants -subsequent (second) vendees that they are entitled to lead evidence is accepted, then it will amount to re-opening the entire matter, without being their any locus standi. Tomorrow, they may further transfer the land to third subsequent vendees and so on and so forth, then, they will again claim a right to adduce additional evidence. In this manner, it will amount to encouraging such avoider of law, who subsequently purchased the land in dispute during the pendency of the suit, in order to illegally defeat the rights of the plaintiff. Not only that, it will further give rise to variety of multiplicity of proceedings and there will be no end of anything (litigation). Therefore, to me, the first appellate Court has rightly negated the prayer of the appellants-subsequent (second) vendees in this behalf. In this manner, the contrary arguments of learned counsel for the appellants-subsequent (second) vendees that the first appellate Court ought to have afforded them opportunity to adduce additional evidence, is not only devoid of merit but misplaced as well. Thus, the legal position formulated in Dhanna Singh and Jaswinder Singh's cases (supra) "mutatis mutandis" is applicable to the facts of the present case and is the complete answer to the problem in hand.

(25) There is another aspect of the matter, which can be viewed from a different angle. As indicated earlier, the bare perusal of the record would reveal that the plaintiff filed the suit for a decree of declaration/ permanent injunction to the effect that he alongwith defendant Nos.4 to 7 became owners of the suit property belonging to Mehar Singh (deceased), being his legal heirs. Mehar Singh neither performed any marriage nor

---

(5) 1998(1) PLR 706

(6) 2005(1) PLR 593

executed any Will in favour of Ranbir Kaur (defendant No.1). The trial Court as well as the first appellate Court has accepted the plea of the plaintiff in this regard. The present suit was filed by the plaintiff on 15.3.1994. The appellants-subsequent (second) vendees claimed that they have purchased the land in dispute, vide sale deeds dated 7.6.1996, 14.11.1996, 22.11.1996, 15.5.1997 and 24.12.1997 from their respective vendors and the vendees of Ranbir Kaur. That means, neither Ranbir Kaur (defendant No.1) had any alienable right in the suit land nor any title could legally be passed on her vendees. Hence, the appellants-subsequent (second) vendees cannot derive any title from their respective vendors. Thus, they have got no right, title or interest in any manner in the suit land. Above-all, as they have purchased the land in dispute during the pendency of the suit, therefore, their sales are hit/barred by the principle of lis pendens as well.

(26) Once, it is proved that the appellants-subsequent (second) vendees have subsequently purchased the land in dispute, during the pendency of the suit and their transactions are hit by rule of lis-pendens, then question of their bona fide purchasers and protection under section 41 of the T.P.Act did not arise at all, as urged on their behalf. Therefore, the contrary arguments of their counsel “stricto sensu” deserve to be and are hereby repelled under the present set of circumstances.

(27) Moreover, the first appellate Court has rightly decided the real controversy between the parties, through the medium of impugned judgment dated 31.7.2008, which, in substance, is as under:-

*“A document is of no help to her under any circumstances for want of proof of the same. Issue regarding proof of will dated 15.6.1992 executed in favour of defendant no.1 and resulting the mutation no.652 was not pressed by the defendant no.1 as per statement recorded on 12.2.2000 in the lower court. Admittedly, the will dated 15.6.1992 is a registered instrument. There is no evidence on record on behalf of the defendants much less from the defendant no.1 to prove that the will dated 15.6.1992 executed in her favour by Mehar Singh is valid. Though, the will is registered instrument yet the burden always lies on the defendant to prove due execution of the same by leading cogent and*

*convincing evidence. No evidence on behalf of the defendant in the present case is forthcoming to prove the validity of the will dated 15.6.1992 in favour of the defendant no.1. Since, the will has not been proved by the defendants. Consequently, the mutation no.652 executed on the basis of will also stands unproved. As corollary, it is thus held that the respondent no.1 Ranbir Kaur has no right of ownership and possession. She could not therefore transfer the better than that which vest in her favour and as corollary the vendees from the vendees of the defendant no.1 i.e. Sukhdev Singh, Mohinder Ram and Joginder Ram also cannot possess of better title than what Ranbir Kaur had. Resultantly, there is no illegality in the judgment and decree passed by the trial court to the fact that the sale deed dated 17.12.1993 and 7.12.1993 are illegal, null & void. The possession of Ranbir Kaur and Karnail Singh and Niranjana over the suit land thus has been rightly held by the trial court to be un-authorized and consequently, it has been rightly held by the trial court that the plaintiff alongwith Sarwan Kaur, Gian Kaur, Baksh Kaur and Sunder Kaur are entitled to a decree of possession in the suit land. There is no illegality in the judgment and decree dated 1.3.2000 passed by the lower court.*

*The plea of bonafide purchaser for consideration as set up by the present appellants no.2, 7 & 8 is totally untenable. They cannot be held to be bonafide purchaser for consideration. It was entirely upon them to ascertain authority of the transfer through reasonable enquiry being transferee pendente lite. They are not entitled to protection of section 41 of Transfer of Property Act. It has been held by our own Hon'ble High Court in case titled as **Smt.Sarvjeet Kaur versus Rang Lal** 1991 (1) CCC 319 in which it has been held that the subsequent purchaser, during the pendency of the suit for specific performance is bound by the decree against the vendor and the plea that he is bonafide*

*purchaser without notice, is of no consequence. In view of this settled proposition of law that the appellants no.2,7 & 8 being the transferee stands in same possession and status as they transfer had, and legal consequence that flow against the party bind these appellants, as well. In view of section 52 of the Transfer of Property Act subsequent purchaser during the pendency of the suit is bound by the principle of lis pendence and any defence that he is the bonafide purchaser for value without notice is not tenable to such transferee. It is also a settled law laid down by our own Hon'ble High Court in **Jaswinder Singh versus Sohan Singh 2004 (4) RCR (Civil) 785** that subsequent vendees only enter into the shoes of vendor. He has no locus standi to file a separate written statement and lead evidence."*

(28) Meaning thereby, the Ist appellate Court has taken into consideration and appreciated the entire relevant evidence brought on record by the parties in the right perspective. Having scanned the admissible evidence in relation to the pleadings of the parties, the first Appellate Court has recorded the findings of fact that the appellants-subsequent (second) vendees are not bona fide purchasers, their transaction is hit by the principle of lis pendens and rightly negated their claim. Such pure findings of fact based on the appraisal of evidence, cannot possibly be interfered with by this Court, while exercising the powers conferred under section 100 CPC, unless and until, the same are illegal and perverse. No such patent illegality or legal infirmity has been pointed out by the learned counsel for the appellants-subsequent (second) vendees, so as to take a contrary view, than that of well reasoned decision already arrived at by the Ist appellate Court, in this behalf.

(29) No other meaningful argument has been raised by the learned counsel for the appellants to assail the findings of the Ist appellate Court in this respect. All other arguments, relatable to the appreciation of evidence, now sought to be urged on behalf of the appellants, in this relevant direction, have already been duly considered and dealt with by the Ist appellate Court.

(30) Likewise, the entire matter revolves around the re-appreciation and re-appraisal of the evidence on record, which is not legally permissible and is beyond the scope of second appeal. Since no question of law,

muchless substantial, is involved, so, no interference is warranted, in the impugned judgment and decree of the Ist appellate Court, in view of the law laid down by Hon'ble Apex Court in case **Kashmir Singh versus Harnam Singh & Anr. (7)**, in the obtaining circumstances of the present case.

(31) No other legal point, worth consideration, has either been urged or pressed by the learned counsel for the parties.

(32) In the light of aforementioned reasons, as there is no merit, therefore, the instant appeal is hereby dismissed as such.

---

**J.S. Mehndiratha**

**Before Nawab Singh, J.**

**ANISH,—Appellant**

**versus**

**NASRUDIN KURESHI AND ANOTHER,—Respondents**

**FAO No. 2509 of 2011**

16th January, 2012

***Workman's Compensation Act, 1923 - S 3, 4 & 19 - Commissioner allowed compensation to the tune of Rs.81,497/- to be paid within 30-days of passing of the judgment and ordered that in case the amount is not so deposited, rate of interest @ 12% per annum from date of judgment shall be paid - Claimant challenged order of Commissioner on the point of grant of interest - Appeal partly accepted.***

***Held***, That the appellant is entitled to amount of compensation of Rs.81,497/- from the date he sustained injury i.e. 30.11.2006 and would be entitled to interest thereon with effect from thirty days thereafter that is December 30th, 2006 till the amount of compensation was deposited by the Company.

(Para 8)