

DHANNA SINGH AND ORS.
v.
BALJINDER KAUR AND ORS.

A

APRIL 4, 1997

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

B

Code of Civil Procedure, 1908 :

Transfer of Property Act, 1882 : Section 52.

*Suit for permanent injunction filed by respondents—No evidence ad-
duced by defendant—Order passed by Court foreclosing the evidence of
defendant—Appellant a subsequent purchaser from defendant—Application
for adduction of evidence by appellant—Apart from the doctrine of lis pen-
dense under Section 52 of the T.P. Act, the subsequent purchaser does not
get any right to lead to any evidence, as he stepped into the shoes of the first
defendant, who had given up the right to lead evidence—In view of these
circumstances, appellant does not get any right to lead any evidence.*

C

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3001 of
1997.

E

From the Judgment and Order dated 22.5.96 of the Punjab &
Haryana High Court in C.R. No. 4333 of 1995.

Mr. Dhruv Mehta, S.K. Mehta and Fazlin Anam for the Appellants.

Sudhir Walia and Mahinder Singh Dahiya for the Respondent.

F

The following Order of the Court was delivered :

Leave granted.

This appeal by special leave arises from the order of the Single Judge
of the Punjab and Haryana High Court, made on May 22, 1996 in C.R. No.
4333/1995.

G

The undisputed facts are that the respondents filed a suit for per-
manent injunction with the following prayer :

H

A "It is, therefore, prayed that a decree for permanent injunction
restraining the defendants from raising any construction over any
specific portion of the property detailed in the heading of the
B plaintiff, and also restraining the defendants from filling any part of
the property by sand and also restraining the defendants from
alienating any specific portion of the property and also restraining
the defendants from transferring the possession of the property
without the same being partitioned between the parties to the suit;
may kindly be passed in favour of the plaintiffs against the defend-
ants with costs and any other relief which the Hon'ble Court may
deem fit be also granted."

C Pending the suit, though several opportunities were given, no
evidence was adduced by the defendant. The court passed an order on
September 22, 1995 foreclosing the evidence of the defendant on the
statement of the counsel that the first defendant was not willing to lead any
D evidence. An application for impleadment was filed earlier by the appellant
who is a subsequent purchaser from the first defendant. After implead-
ment, he filed application for adduction of evidence which was rejected.
Thus this appeal.

E The undisputed fact is that in the plaint the plaintiff-respondent had
already sought for a relief of injunction of alienation, yet the alienation
came to be made. Apart from the doctrine of *lis pendense* under section
52 of the T.P. Act, the subsequent purchaser does not get any right to lead
to any evidence, as he stepped into the shoes of the first defendant, who
had given up the right to lead evidence. In view of these circumstances, he
does not get any right to lead any evidence.

F The appeal is, accordingly, dismissed. No costs.

T.N.A.

Appeal dismissed.