

Transferee Pendente Lite Bound By Decree And Cannot Appeal After Denial Of Impleadment: Supreme Court Of India

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Introduction

In a recent judgment in *H. Anjanappa v. A. Prabhakar*¹, the Supreme Court of India dealt with the applicability of the doctrine of *lis pendens* under Section 52 of the Transfer of Property Act, 1882. The moot proposition in this case was whether subsequent purchasers of a disputed property, who were neither parties to the original suit nor granted leave to be impleaded, could appeal against a decree of specific performance. The Apex Court ruled against the subsequent purchasers, emphasising that a transferee *pendente lite* (one who purchases property during the pendency of a suit) is bound by the final decree. In this article, we navigate through the facts of the case, and the findings of the Supreme Court.

Facts

The case revolves around a dispute over land ownership and the enforceability of an agreement for sale. The Plaintiffs (the Appellants before the Supreme Court) had entered into an Agreement of Sale ("**Agreement of Sale**") dated 05.09.1995 with the original owner, *i.e.*, Defendant No. 1, for purchasing lands measuring 42 acres in Bagalur Village, Bengaluru. A supplementary agreement was executed on 10.03.1997 extending the time for execution of a Sale Deed, as the eviction of unauthorised occupants was not completed by the original owner.

Despite the execution of the Agreement of Sale and the supplementary agreement, the subject matter property was transferred by Defendant No. 1 to Defendant No. 3 through a sale deed, who subsequently sold a portion of the land to Respondent Nos. 1 and 2 ("**Subsequent Purchasers**").

The Appellants initiated civil suit proceedings bearing Original Suit No. 458 of 2006 seeking specific performance of the Agreement of Sale. Upon appreciating the facts of the case, the Trial Court admitted the suit and granted a temporary injunction restraining the Defendants from further alienation of the property.

The Subsequent Purchasers filed an application to implead themselves in the suit, but the Trial Court rejected their application. Thereafter, the Subsequent Purchases did not challenge this rejection.

The Trial Court decreed the suit in favour of the Appellants, directing the execution of the sale deed in their favour. Defendant No. 3 challenged the decree before the High Court but later withdrew the appeal. After nearly two years, Respondent Nos. 1 and 2 filed a belated appeal before the High Court, seeking condonation of a 586-day delay and leave to appeal. The High Court condoned the delay and granted them leave to appeal. The Appellants challenged this order before the Supreme Court.

Arguments by the Appellants

¹ 2025 INSC 121.

The Appellants argued that the High Court committed a grave error in condoning the 586-day delay without sufficient justification. The Respondents were well aware of the ongoing litigation, and their delay was inexcusable. Further, the Appellants argued that since the property was sold during the pendency of the suit, the sale was subject to *lis pendens* under Section 52 of the Transfer of Property Act. As such, the Respondents had no independent right to challenge the decree.

The Appellants argued that the Respondents had previously sought impleadment in the suit before the Trial Court, which was rejected. Since the Respondents did not appeal this rejection, the issue had attained finality, preventing them from now claiming a right to be heard.

The Appellants argued that the Respondents were well aware of the pending litigation yet chose to purchase the property in contravention of the injunction order. Therefore, the Appellants submitted that the Respondents could not claim to be *bona fide* purchasers.

Arguments by the Subsequent Purchasers (Respondents)

The Subsequent Purchasers argued that they had a substantial interest in the suit property and ought to be allowed to challenge the decree, as they were adversely affected by the same. They alleged that the original owner (Defendant No. 3) colluded with the Appellants by failing to defend the suit properly. The Respondents pleaded that they were senior citizens residing abroad (Scotland) and were misled by Defendant No. 3, who assured them that he would protect their interests. The Respondents argued that the delay in filing the appeal was due to their reliance on their vendor and their lack of knowledge about the legal proceedings.

Supreme Court's Analysis and Decision

The Supreme Court analysed the legal position regarding *lis pendens* and the right of third parties to file an appeal. The findings of the Supreme Court are as follows:

- (i) The Supreme Court found no reasonable justification for the delay of 586 days in filing the appeal. The Apex Court opined that the Respondents were aware of the litigation and had previously sought impleadment at the trial stage but did not challenge the rejection of their request for impleadment. As per the Supreme Court, the Respondent's plea of being misled by their vendor was unconvincing.
- (ii) The Supreme Court reaffirmed that a sale executed during the pendency of a suit is not void *ab initio*, but it is subject to the final outcome of the suit. Any purchaser who purchases a *pendente lite* property buys such property at their own risk.
- (iii) Since the Respondents' impleadment was rejected by the Trial Court and they did not appeal, they could not now seek leave to challenge the final decree.
- (iv) The Supreme Court emphasised that once impleadment was denied, allowing them to challenge the decree at a later stage would violate the principles of finality and *res judicata*.

- (v) The Apex Court clarified that while a subsequent purchaser may seek impleadment under Order XXII Rule 10 of the Civil Procedure Code, such an application must be made in time. In this case, the Respondents failed to exercise this right properly.

In view of the above, the Supreme Court found that the High Court erred in granting leave to appeal and condoning the delay without sufficient cause. It set aside the High Court's order, thereby dismissing the appeal filed by the Subsequent Purchasers.

Comment

The judgment of the Supreme Court reinforces the interplay of the doctrine of *lis pendens* with the provisions of the Transfer of Property Act. Parties purchasing properties must exercise due diligence before acquiring any property under litigation.

The judgment also clarifies the longstanding legal position that Courts will not condone undue delays or misuse of procedural provisions to reopen settled issues.

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