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An Introspective Analysis on the Doctrine of Lis Pendens

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ABSTRACT

Transferring or disposing of property is of the most important right the owner can possess. However, in certain circumstances, he may be restrained to alienate his property for a specific period time, like while a suit or proceeding regarding such property is pending. Such a circumstance is known as the Doctrine of Lis Pendens and is embodied under section 52 of the Transfer of Property Act, 1882². Section 52 of the Transfer of Property Act, 1882³ allows the transfer of property under certain circumstances, like after the leave of the court has been obtained,⁴ or where the suit itself was of collusive nature⁵ etc. Certain circumstances are also not hit by the doctrine such as a suit for debt or damages where the claim is limited to money or suit for recovery of movables⁶ etc. The Courts over the years have carved out certain circumstances where the doctrine is inapplicable such as in case of When the transferor alone is affected⁷, or where the suit itself is of a collusive or friendly nature⁸, or when a transfer is made by a person who is not a party to such suit⁹ etc. The Courts have also made it clear that certain suits involve question of rights in immovable property and thus the doctrine will apply, for example in a suit of partition¹⁰, in suit on mortgage¹¹, in an easement suit¹² etc. This paper will examine the essentials for applicability of the doctrine of Lis Pendens as embodied in section 52 of the Transfer of Property Act, 1882¹³ and shall also examine the judicial interpretation of certain key words of the section. Further, this paper would also explore the various situations in which the doctrine is applicable and the situations in which the doctrine is not applicable.

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² Transfer of Property Act, 1882, No. 4, Acts of Parliament, 1882, § 52

³ Transfer of Property Act, 1882, No. 4, Acts of Parliament, 1882, § 52

⁴ DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 203 (19th Ed., 2017).

⁵ Gouri Dutta v. Jijibai, (1912) 36 Bom. 189 (India).

⁶ DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 199 (19th Ed., 2017)

⁷ Shib Chandra v. Lachmi Narain, (1929) 33 CWN 1091 PC (India).

⁸ Kathir v. Mremadiss, (1915) 38 Mad 450 (India); Ram Narain V. Sajid Ali Khan, AIR 1946 Oudh 99 (India).

⁹ Pethu Ayyar v. Sankaranarayana, (1917) 40 Mad 955 (India).

¹⁰ Jogendra Nath v. Debendra Nath, (1898) 26 Cal. 127 (India).

¹¹ Faiyaz Hussain Khan v. Prag Narain, (1907) 29 All. 339 (India).

¹² Ramanamma v. Anthamma, AIR 1955 AP 199 (India).

¹³ Transfer of Property Act, 1882, No. 4, Acts of Parliament (1882), § 52

I. THE CONCEPT OF ‘LIS PENDENS’

The doctrine of *Lis Pendens* is based on the Latin maxim – ‘*pendente lite nihil innovature*’ which means during the pendency of litigation regarding an immovable property, nothing new should be introduced.¹⁴ The doctrine of *Lis Pendens* which is embodied in section 52 of the Transfer of Property Act, 1882¹⁵ lays down that when a suit, directly involving the questions of rights over an immovable property is pending in a court of competent jurisdiction, and such suit is bona fide, during the pendency of such a suit, that property cannot be transferred, without the leave of such court¹⁶. However, if during the pendency of the suit, the property is transferred without the permission of the court, the purchaser of such property is bound by the decree which maybe passed in the suit¹⁷. The section is based on equity and good conscience and is indented to protect the parties to litigation against alienation by their opponent during the pendency of the suit¹⁸. However, what sets the section in motion is the fact the rights over an immovable property is ***directly and specifically*** in question¹⁹, mere mention of an immovable property in the plaint is not enough to attract the section²⁰. So, only in cases where the rights in respect of an immovable property are ***directly and substantially*** in question, that property cannot be transferred whilst the suit is still pending. Further, such suit should be of a bona fide nature and should not be collusive or with a mala fide intent, if the suit is found to be collusive, then the doctrine of *Lis Pendens* would not apply²¹. And the suit must be filed in a court of competent jurisdiction²² i.e., that the court must have the power, whether pecuniary or territorial, to try such suit, otherwise a suit in a court which does not have the jurisdiction to try such case, *Lis Pendens* would not apply.

II. ESSENTIAL CONDITIONS FOR THE DOCTRINE OF ‘LIS PENDENS’- § 52 OF THE TRANSFER OF PROPERTY ACT, 1882

As mentioned previously, the doctrine of *Lis Pendens* does not apply mechanically as soon as there is a suit pending regarding an immovable property, there are essential conditions that are required to be fulfilled in order to apply the doctrine. In *Dev Raj Dogra v. Gyan Chand*

¹⁴DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 192 (19th Ed., 2017).

¹⁵Transfer of Property Act, 1882, No. 4, Acts of Parliament (1882), § 52

¹⁶DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 203 (19th Ed., 2017).

¹⁷Balwant Singh v. Buta Ram, 2009 (4) 156 PLR 52 (P&H) (India).

¹⁸Amit Kumar Shaw v. Farida Khatoon, AIR 2005 SC 2209 at 2213 (India).

¹⁹Kedarnath Lal v. Sheonarain Ram, AIR 1957 Pat 408 (India).

²⁰DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 199 (19th Ed., 2017).

²¹R. Siddanagouda v. B. Madivalappa Mulimani, AIR 2002 Kant 96 at 99 (India),

²²Ali Shah v. Husain Baksh, (1879) 1 All 588 (India).

*Jain*²³, the Hon'ble Justice A.N. Sen, as his Lordship then was laid down three essential conditions for application of the doctrine they are :

- 1) A suit or a proceeding in which any right to immovable property must be directly and specifically in question, must be pending;
- 2) The suit or the proceeding shall not be a collusive one;
- 3) Such property during the pendency of such a suit or proceeding cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the right of any other party thereto under any decree or order which may be passed therein except under the authority of Court. In other words, any transfer of such property or any dealing with such property during the pendency of the suit is prohibited except under the authority of Court, if such transfer or otherwise dealing with the property by any party to the suit or proceeding affects the right of any other party to the suit or proceeding under any order or decree which may be passed in the said suit or proceeding.²⁴

What can be further inferred from the above set guideline and from the language of the section itself that the conditions that are required to be fulfilled in order to apply the doctrine are : -

- 1) There is a pendency of a suit or proceeding.
- 2) The suit or proceeding must be pending in a Court of competent jurisdiction.
- 3) A right to immovable property is directly and specifically involved in the suit.
- 4) The suit or proceeding must not be collusive.
- 5) The property in dispute must be transferred or otherwise dealt with by any party to suit.
- 6) The transfer must affect the rights of the other party to litigation.²⁵

When, a situation meets all the above mentioned criterions, the doctrine will apply, and thus during pendency of a bona fide suit, in a court of competent jurisdiction, where the rights over an immovable property is directly and substantially is involved, such property cannot be

²³Dev Raj Dogra v. Gyan Chand Jain, AIR 1981 SC 981 at 987 (India).

²⁴*Ibid*

²⁵DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 194 (19th Ed., 2017).

transferred without the leave of the court, and if transferred without such leave, the purchaser of such property would be bound by the decree of court²⁶.

The author would now analyze all the essential criterions mentioned above and would also highlights the courts views with respect to each of the criterions.

III. ANALYSIS OF THE ESSENTIAL CONDITIONS FOR THE DOCTRINE OF ‘LIS PENDENS’- § 52 OF THE TRANSFER OF PROPERTY ACT, 1882

As mentioned earlier, the doctrine of *Lis Pendens* does not mechanically apply wherever there is a suit regarding an immovable property, but for its application certain essential conditions must be fulfilled, they are : -

- 1) There is a pendency of a suit or proceeding.
- 2) The suit or proceeding must be pending in a Court of competent jurisdiction.
- 3) A right to immovable property is directly and specifically involved in the suit.
- 4) The suit or proceeding must not be collusive.
- 5) The property in dispute must be transferred or otherwise dealt with by any party to suit.
- 6) The transfer must affect the rights of the other party to litigation.²⁷

The author would now examine and analyze each of the essential conditions and would also highlight the judicial view with respect to each condition.

There Is A Pendency Of A Suit Or Proceeding...

This section is set into motion wherever, there is a pendency of a *suit* or a *proceeding*. Pendency of a suit generally means when the case is pending in a court of law, from presentation of the plaint to the passing of decree and its execution thereof²⁸ or even when the appeal is filed within the time of limitation as prescribed²⁹, in all such situation a suit is deemed to be pending and a property in such a period cannot be transferred as it is hit by the doctrine of *Lis Pendens*. Even pendency of a Revision³⁰ and Special Leave Petition³¹ is interpreted to be pendency of a suit, by the courts, for the purpose of the doctrine during which such immovable property cannot be transferred. So basically, whenever after obtaining

²⁶Balwant Singh v. Buta Ram, 2009 (4) 156 PLR 52 (P&H) (India).

²⁷DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 194 (19th Ed., 2017).

²⁸Abdul Aziz v. Dist. Judge, Rampur, AIR 1994 All 167 (India).

²⁹Ghantesh Ghosh v. Madan Mohan Ghosh, AIR 1997 SC 471 (India).

³⁰U.P. Awas Evam Vikas Parishad v. Laxmi Chandra Paul, 1996 AIHC 1652 at 1653 (All)(India).

³¹Dalip Kaur v. Jeewan Ram, AIR 1996 P&H 158 at 159 (India).

the decree the aggrieved party wishes to file an appeal, or revision or SLP those proceedings are deemed to be the continuation of the original suit and during the time such suit is disposed of, the doctrine of *Lis Pendens* will continue to operate. Even the Karnataka High Court in the case of *Goudappa Appaya Patil v. Shivari Bhimappa Pattar*³² held that proceedings instituted under the Writ Jurisdiction and The Supervisory Jurisdiction under articles 226 & 227 of the Constitution of India, 1950., would attract the doctrine of *Lis Pendens* and during pendency of such proceedings the property cannot be disposed of.³³ This sections demands strict interpretation and operates only when there is a proceeding pending while the transfer was being made, however, if the transfer was made before the pendency of the suit, such a transfer would not offend the doctrine of *Lis Pendens*³⁴. But mere presentation of plaint is not enough for this doctrine to start operating, the plaint must be presented with a proper court fee and in a court having jurisdiction to entertain such plaint³⁵. When the court rejects a plaint for some faults then pendency does not begin from such date³⁶, but begins from a date where a court has accepted the plaint.

The term *proceeding* mentioned in the section has been widely interpreted by the courts. The word proceeding in the section means a judicial activity in respect of determining the rights over an immovable property, and thus is applicable to both civil and criminal matters³⁷. The word proceeding has been interpreted to include proceeding before Revenue Officer³⁸, or even an Adjudication of claim to, or objections to attachment of, property under O. XXI R. 58 of the Civil Procedure Code, 1908³⁹, or a proceeding under Rule 14 of Co-operative Societies Act, 1912⁴⁰, or even a writ petition⁴¹, are all deemed to be *proceedings* under the section but a proceeding before a Settlement Officer was held not to be *proceeding* by the Madras High Court.⁴²

The author has mentioned in the abovementioned discussion that a suit must be pending in a court regarding an immovable property; however, the court must be of a competent jurisdiction.

³²Goudappa Appaya Patil v. Shivari Bhimappa Pattar, AIR 1992 Kant 71 at 76 (DB)(India).

³³Goudappa Appaya Patil v. Shivari Bhimappa Pattar, AIR 1992 Kant 71 at 76 (DB)(India).

³⁴S. Malleshwarrao v. Bokka Venkateshwarrao, AIR 2013 Kar 88 (India).

³⁵Nathu Singh v. Anand Rao, AIR 1940 Nag. 135 (India).

³⁶Sahandrabai v. Shri Deo Radha Ballabhi, AIR 1938 Nag. 30 (India).

³⁷DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 197 (19th Ed., 2017).

³⁸Nata Padhan v. Banchha Beral, AIR 1968 Ori 36 (India).

³⁹Anundei v. Lal Ram, (1938) Oudh 178 (India).

⁴⁰DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 197 (19th Ed., 2017).

⁴¹Sri Thakurji Radha Krishna Birajman Mohalla Kurmitola v. Dist. Judge, Azamgarh, (2004) 56 All LR 287 at 288 (All) (India).

⁴²Velayuda Mudali v. Co-operative Rural Credit Society, AIR 1934 Mad. 40 (India).

The Suit Or Proceeding Must Be Pending In A Court Of Competent Jurisdiction...

The court, in which, the suit with regards to an immovable property must be pending must be competent to try such suit. A civil court's jurisdiction depends on many things. The Code of Civil Procedure, 1908 prescribes that the jurisdiction of a civil court depends upon the territorial limits or on the basis of valuation or on the basis of subject-matter of dispute⁴³. So, the suit in question must be filed in a court of competent jurisdiction which fulfils the abovementioned parameters. However, the courts have made it clear that in case of pecuniary jurisdiction, if the suit of is filed in court of higher pecuniary jurisdiction, then that court would be deemed to be a court of competent jurisdiction⁴⁴.

A right to immovable property is directly and specifically involved in the suit...

The suit, in question, that needs to be filed in a court of competent jurisdiction, must directly and specifically involve the right over an immovable property.⁴⁵ Mere mentioning of an immovable property in the plaint would not attract the doctrine of *Lis Pendens*⁴⁶. The test whether a suit involves any question of right in immovable property depends upon the nature of claim and the decree passed in such suit.⁴⁷ So, when a Hindu widow filed a suit against her step son and in her plaint she mentioned that certain immovable property is in his possession, the court held that the suit does not involve the right over an immovable property specifically and directly and thus was not hit by the doctrine of *Lis Pendens*.⁴⁸ But in cases where maintenance is sought as a charge on a property, selling off such property during the pendency of such maintenance suit is hit by the doctrine of *Lis Pendens*⁴⁹. In a case where there is a dispute between the landlord and the tenant over payment of rent, the landlord is not barred to sell off the property by the doctrine of *Lis Pendens* as the litigation is regarding the payments of rents and not rights in that immovable property⁵⁰. However, the courts over the years has laid down certain suits would inevitably involve the right in immovable property directly and substantially and would thus be hit by the doctrine of *Lis Pendens*, those suits are

- A suit for partition⁵¹
- A suit on mortgage⁵²

⁴³DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 198 (19th Ed. 2017).

⁴⁴Govind Pillai v. Aiyappan, AIR 1957 Ker. 10 (India).

⁴⁵Kedarnath Lal v. Sheonarain Ram, AIR 1957 Pat 408 (India).

⁴⁶DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 199 (19th Ed. 2017).

⁴⁷ Mahesh Prasad v. Mundar, AIR 1951 All. 141 (India).

⁴⁸Manika Garmani v. Ellappa, (1896) 19 Mad. 271 (India).

⁴⁹Sivagangai Ammal v. Jagadambal, AIR 1927 Mad. 101 at 104 (India).

⁵⁰Nrisingha Prosad Bose v. Nil Ratan Singha, 54 CWN 683 (India). See also DARASHAW J. VAKIL, COMMENTARIES ON TRANSFER OF PROPERTY ACT 590 (5th Ed., 2017).

⁵¹Jogendra Nath v. Debendra Nath, (1898) 26 Cal. 127 (India).

- A suit for pre-emption⁵³
- Easement Suits⁵⁴

However, the courts down the years have also classified some suits, where the doctrine of *Lis Pendens* would not apply, such kinds of suits are :-

- Suit for debts or damages where the claim is limited to money⁵⁵
- In cases of friendly⁵⁶ or collusive⁵⁷ suits.
- When the transferor alone is affected⁵⁸
- In cases of transfer pending a suit by a person who is not a party to such suit⁵⁹
- In a suit regarding movable property⁶⁰

Further, apart from the suit involving the rights over an immovable property, it must not also be collusive in nature in order for the doctrine to apply.

The suit or proceeding must not be collusive....

The doctrine of *Lis Pendens* applies only when the suit, in question, is bona fide or rather not collusive in nature, where the suit filed is collusive from the very inception; the doctrine has no applicability whatsoever.⁶¹ A collusive suit is one, which is filed with a mala fide intention, and there is no actual contest between the parties, the respective parties already knows their rights or are in agreement with each other with respect to such rights and the suit is filed with a view to obtain a decree which already the parties are already in agreement.⁶² Justice Venkatarama Ayyar, as his lordship then was, of the Hon'ble Supreme Court of India described the nature of a collusive suit in the case of *Nagubai v. Sham Rao*⁶³ as :

*“...In such a proceeding, the claim put forward is fictitious, the contest over it is unreal, and the decree passed therein is a mere mask having the similitude of a judicial determination and worn by the parties with the object of confounding third parties...”*⁶⁴

⁵²Faiyaz Hussain Khan v. Prag Narain, (1927) 29 All. 339 (India)

⁵³Madho Singh v. Skinner, AIR 1951 Lah. 433 (India).

⁵⁴Ramanamma v. Anthamma, AIR 1955 AP 199 (India).

⁵⁵DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 199 (19th Ed., 2017).

⁵⁶Kathir v. Mremadiss, (1915) 38 Mad. 450 (India).

⁵⁷Ram Narain v. Sajid Ali Khan, AIR 1946 Oudh 99 (India)

⁵⁸Shib Chandra v. Lachmi Narain, (1929) 33 CWN 1091 P.C.(India).

⁵⁹Bala v. Daulu, (1925) 27 Bom LR 38 (India).

⁶⁰Govind Baba v. Jijibai, (1912) 36 Bom. 189 (India).

⁶¹DARASHAW J. VAKIL, COMMENTARIES ON TRANSFER OF PROPERTY ACT 579 (5th Ed., 2017).

⁶²Jogendra v. Fulkumari, (1900) 27 Cal. 77(India).

⁶³Nagubai v. Sham Rao, (1956) SCR. 451 (India).

⁶⁴*Ibid*

So basically, in suits, where there is no actual contest between the parties, and the suit is merely filed to obtain a decree which would declare the rights which the parties are in already agreement is known as a collusive suit, and in cases of such collusive suits, the doctrine of *Lis Pendens* is inapplicable.⁶⁵ In cases, where the suit filed is of collusive nature, the transferee is not bound by the decree of the court as such suits are not hit by the doctrine of *Lis Pendens*.⁶⁶ In the case of *Gouri Dutav. Shaikh Mohammed*⁶⁷, the plaintiff (the Hindu wife) had entered into a secret agreement with his husband, the defendant that during the pendency of the maintenance proceedings, the husband would transfer the property. During the pendency of the suit the husband sold off the property and afterwards a charge over the property was created in favor of the wife. The Privy Council held, that since the suit was of collusive nature, the transfer was not hit by the doctrine of *Lis Pendens* and thus the purchaser of the property was not bound by the decree of the court.⁶⁸

The property in dispute must be transferred or otherwise dealt with by any party to suit...

The language of the section provides that during an ongoing litigation the property cannot be transferred or otherwise dealt with. Transfer, in the plain sense would mean sale, gift, exchange, mortgage, lease etc., so if the property is transferred by any of the means stated before, then inevitably such transfer would be hit by the doctrine *Lis Pendens*, but the phrase ‘*otherwise dealt with*’ has been widely interpreted to mean such transactions which does not come within the meaning of section 5 of the Transfer of Property Act, 1882⁶⁹, but there is transfer of some interest of some interest in the property.⁷⁰ This term has been widely interpreted by the judiciary and in essence means that wherever there is some change in the *status quo* of the property, such change would be hit by the doctrine⁷¹. A contract for sale of the disputed property during the pendency of such suit was held to be within the ambit of the phrase ‘*otherwise dealt with*’ in the case of *Kubra Bibi V. Khudaij*⁷².

Even partition on the disputed property⁷³ during pendency of the suit and constructing a building on a disputed property⁷⁴ or even entering into a compromise regarding the disputed

⁶⁵Gnanapakiam v. Nadar Ponian Nadar, AIR 1955 Trav Co 3 (India).

⁶⁶DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 200 (19th Ed. 2017).

⁶⁷ Gouri Dutta v. Shaikh Mohammed, AIR 1948 PC 147 (India).

⁶⁸ Gouri Dutta v. Shaikh Mohammed, AIR 1948 PC 147 (India). See also DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 200 (19TH ED., 2017).

⁶⁹Transfer of Property Act, 1882, No. 4, Acts of Parliament, 1882, §5

⁷⁰DR. R.K. SINHA, TRANSFER OF PROPERTY ACT 201 (19th Ed., 2017).

⁷¹DARASHAW J. VAKIL, COMMENTARIES ON TRANSFER OF PROPERTY ACT 572 (5th Ed., 2017).

⁷² Kubra Bibi v. Khudaija, (1917) 38 IC 582 (India).

⁷³Lakshmanan v. Kamal, AIR 1958 Ker. 67 (India).

⁷⁴Narain Singh v. Iman Din, (1943) Lah. 978 (India).

property⁷⁵ during the pendency of suit all comes within the purview of 'otherwise dealt with' and such kinds of transactions would be hit by the doctrine of *Lis Pendens*.

The transfer must affect the rights of the other party to litigation...

Another essential condition for applicability of doctrine of *Lis Pendens* is that the transfer must affect the rights of other party to litigation, here the term 'other party' does not mean any stranger to the suit, but means any party between whom and the party who transfers, there is an issue for decision which might be prejudiced by alienation⁷⁶ or in simple terms other party here means the opposite party whose interest may be affected by the transfer, during the pending suit. Thus, this doctrine is inapplicable in between parties who are at one side, either as defendants or as plaintiffs as there cannot be any dispute between them⁷⁷. In a transfer where only the rights of the transferor and not of the other party of the suit are affected, the doctrine of *Lis Pendens* cannot be applied⁷⁸.

IV. EXCEPTIONS OF THE DOCTRINE OF 'LIS PENDENS'- § 52 OF THE TRANSFER OF PROPERTY ACT, 1882.

While, the doctrine of *Lis Pendens* applies when the conditions as discussed above are fulfilled, there are certain exceptions to it, such when the transfer is made with the permission of the court.

Transfer with the permission of the court...

The court in which a suit which involves questions regarding the rights of an immovable property directly and specifically, may grant permission to any of the parties to dispose of the property while the suit is still pending subject to any condition it may impose. This acts as an exception to the doctrine of *Lis Pendens*. However, the court in such situations carefully scrutinizes the facts and circumstances of each case in order to make sure that the rights of any of parties are not jeopardized by such a permitted transfer⁷⁹. In the case of *Vinod Seth v. Devinder Bajaj*⁸⁰, the court after looking carefully into the facts and circumstances of case, thought it was a fit case to be exempted from the doctrine of *Lis Pendens* upon furnishing of security. The court allowed the defendants to dispose of the property while the suit was still

⁷⁵ Hazara Singh v. Bube Khan, (1922) 3 Lah. 264 (India).

⁷⁶ Pulavarthi v. Bommiredi, AIR 1949 Mad. 904 (India). See also Dr. R.K. Sinha, Transfer of Property Act 204 (19th Ed. 2017).

⁷⁷ R.K. SINHA, TRANSFER OF PROPERTY ACT 204 (19th Ed., 2017).

⁷⁸ Sri Pal Singh v. Naresh, (1925) Pat. 39 (India).

⁷⁹ DARASHAW J. VAKIL, COMMENTARIES ON TRANSFER OF PROPERTY ACT 596 (5th Ed., 2017).

⁸⁰ Vinod Seth v. Devinder Bajaj, (2010) 8 SCC 1 at 20 and 24 (India).

pending upon furnishing a security of Rs. 3,00,000.⁸¹

V. EFFECT OF THE DOCTRINE OF 'LIS PENDENS'- § 52 OF THE TRANSFER OF PROPERTY ACT, 1882.

The doctrine of *Lis Pendens* does not prohibit the vesting of rights in property, but makes the purchaser of the disputed property bound the result of the litigation.⁸² The transfer made during the ongoing suit is not void but voidable at the instance of the affected party.⁸³ Even though the doctrine of *Lis Pendens* prohibits the transfer of property during an ongoing suit, the transfer so made does not *ipso facto* become illegitimate, but the purchaser of such property during the ongoing litigation is bound by the outcome of such suit.⁸⁴ The effect of the doctrine of *Lis Pendens* is not to invalidate a transfer made during an ongoing suit altogether but it only operates as a bar to the extent of right, title and interest that may be determine in the favor of other party⁸⁵ as the essence of the doctrine is that a transaction made during the pendency of the suit by one party cannot prejudice the interest of other party.⁸⁶

VI. CONCLUSION

The author has discussed the concept of *Lis Pendens*, the various situations where it may or may not apply, the essential conditions for application of it and the exception. What is evident from all the analysis is that, there emerge 2 very important concepts that, in the view of the author are indispensable when we speak about the doctrine? The first one is that the suit must be regarding an immovable property which *directly and substantially* involves questions about its rights. Any suit apart from that would not be hit by the doctrine, so basically this doctrine cannot be subjected to misuse by anyone by mere mentioning of an immovable property in the plaint. The second important concept, which probably is the most subtle yet is, in the author's view, the most important, the effect of *Lis Pendens*. The doctrine in its pith and substance prohibits transfer during the pendency of the suit, but however, if any property is transferred during the pendency, what would be the effect? The sale would not be invalidated, but the purchaser shall become bound by the result of the litigation, so in a way the interest which would have otherwise been of a vested nature to purchaser becomes a contingent interest when a transfer is made *pendente lite*.

⁸¹DARASHAW J. VAKIL, COMMENTARIES ON TRANSFER OF PROPERTY ACT 596 (5th Ed., 2017).

⁸²Thomson Press (India) Ltd. v. Nanak Builders and Investors Pvt. Ltd., AIE 2013 SC 2389 (India).

⁸³A.M.K Mariam Bibi v. M.A. Abdul Rahim, 200 AIHC 661 at 662 (Mad) (India).

⁸⁴DARASHAW J. VAKIL, COMMENTARIES ON TRANSFER OF PROPERTY ACT 592 (5th Ed. 2017).

⁸⁵DARASHAW J. VAKIL, COMMENTARIES ON TRANSFER OF PROPERTY ACT 592 (5th Ed. 2017).

⁸⁶Usha Rani Banik v. Haridas Das, AIR 2005 Gau 1 at 4 (India).