

Transfer of property Act, S. 52

Section 52 puts a bar on alienation of property which is the subject-matter of a suit between the parties. Section 64 comes into operation only if a decree of attachment has been obtained and alienation of the property takes place thereafter.

In **Amarnath v. Deputy Director of Consolidation (AIR 1985 All 169)**, a point in the form of an objection was taken that the petitioners had acquired certain plots through a gift and the inclusion of such plots in the suit for partition was a mere irregularity and no court fee was paid for those plots. Secondly an objection was taken that the LN who had made the gift was not a party to the proceedings. Their Lordships held that a party is said to be a party to the suit if the decision/judgment is likely to affect the share of such a party and the decision would be binding on him too. The compromise suit was binding on LN too and his admissions indicated that the impugned plots were also a subject-matter of the suit in which a compromise was reached and half shares of the opposite party was recognized.

In **Supreme General Film Exchange Ltd. v. Brijnath Singh Deo, AIR 1975 SC 1810**, the plaintiff had obtained a decree of attachment in respect of a cinema; in order to overcome the doctrine of *lis pendens* the appellant company got a fresh lease-deed signed and executed by the original owners after the decree of attachment. Their Lordships held that the lease-deed was void as it was executed after the plaintiff had got an attachment order from a competent court. In this case. Section 64, [CPC](#) was invoked.