



# A STUDY ON THE ROLE OF DOCTRINE OF LIS PENDENS IN PREVENTING PARALLEL PROCEEDINGS

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## ABSTRACT

The doctrine of lis pendens, also known as the "doctrine of pending litigation," is a legal principle that deals with the effect of a pending lawsuit on a property or subject matter involved in the dispute. "Lis pendens" is a Latin term that translates to "a suit pending." The doctrine of lis pendens serves two main purposes: Notice to the World: It provides constructive notice to the world that a legal action is pending concerning a particular property or subject matter. This means that anyone dealing with the property or subject matter is deemed to have knowledge of the pending lawsuit and its potential outcome. Jurisdiction and Control: It prevents the parties involved in the lawsuit from transferring or disposing of the property or subject matter in dispute during the pendency of the litigation. This ensures that the court retains jurisdiction and control over the property until the dispute is resolved. The doctrine of lis pendens operates on the principle that it would be

unjust and chaotic if the outcome of a lawsuit could be undermined or rendered meaningless by allowing the parties to freely transfer or dispose of the property or subject matter while the case is ongoing. By maintaining the status quo and preserving the court's jurisdiction, the doctrine aims to protect the rights and interests of the parties involved in the litigation. In practical terms, when a lawsuit is filed involving a particular property or subject matter, a notice of lis pendens is typically recorded in the public records where the property is located. This notice serves as a warning to potential buyers, lenders, or other interested parties that there is a pending lawsuit affecting the property. It helps ensure that any subsequent transactions involving the property are subject to the outcome of the litigation.

## KEYWORDS

Doctrine of lis pendens, litigation pending, principles of equity, immovable property .

## INTRODUCTION

The doctrine of Lis Pendens is primarily based totally at the Latin maxim – ‘pendente lite nihil innovature’ this means that all through the pendency of litigation concerning immovable assets, not anything new ought to be introduced. The doctrine of Lis Pendens that's embodied in phase fifty two of the Transfer of Property Act, 1882 lays down that after a healthy, immediately concerning the questions of rights over an immovable assets is pending in a courtroom docket of able jurisdiction, and such healthy is bona fide, all through the pendency of this type of healthy, that assets can not be transferred, without the depart of such court. However, if all through the pendency of the healthy, the assets is transferred without the permission of the courtroom docket, the consumer of such assets is sure with the aid of using the decree which perhaps was handed withinside the suit. The phase is primarily based totally on fairness and suitable moral sense and is intended to guard the events of litigation towards alienation with the aid of using their opponent all through the pendency of the suit. However, what units the phase in movement is the reality the rights over an immovable assets is immediately and in particular in question mere point out of an immovable assets withinside the plaintiff isn't always sufficient to draw the section. So, simplest in instances wherein the rights in admiration of immovable assets are immediately and significantly in question, that assets can not be transferred at the same time as the health continues to be pending. The doctrine of lis pendens can be affected by several factors, including: Jurisdiction: The doctrine of lis pendens is a legal principle that is recognized in many jurisdictions around the world. The precise scope and application of the doctrine may vary depending on the jurisdiction in which it is being applied. Timing: The doctrine of lis pendens is typically applied when a legal action is pending. Therefore, the timing of the filing of a lawsuit or legal claim can have a significant impact on the application of the doctrine. Notice: The doctrine of lis pendens is intended to provide notice to third parties that legal proceedings are underway that could impact the rights to a particular piece of property. The effectiveness of the doctrine can be impacted by the extent to which notice is provided to interested parties. Property type: The doctrine of lis pendens may be applied differently depending on the type of property that is involved in a legal dispute. For example, the rules governing the application of the doctrine may be

different for real property versus personal property. Nature of the claim: The nature of the legal claim that is being pursued can also impact the application of the doctrine of lis pendens. For example, the rules governing the doctrine may be different for claims related to ownership of property versus claims related to the use or enjoyment of property. Procedural rules: The doctrine of lis pendens is often subject to procedural rules that govern its application. These rules may vary depending on the jurisdiction in which the claim is being pursued. Interplay with other legal doctrines: The doctrine of lis pendens may also be impacted by other legal principles, such as the doctrine of res judicata, which bars the re-litigation of claims that have already been adjudicated. The doctrine of lis pendens is a legal concept that is recognized in many countries around the world. However, its applicability and scope may vary depending on the laws and legal systems of each country. In common law countries like the United States, Canada, and Australia, the doctrine of lis pendens is generally recognized as a common law principle. However, the specific rules and procedures for its application may vary by jurisdiction. For example, in the United States, the doctrine is governed by state law and may vary between different states. In civil law countries like France, Germany, and Spain, the doctrine of lis pendens is recognized as a principle of private international law. Under this system, the doctrine applies to determine which court has jurisdiction over a dispute involving parties from different countries. In these countries, the doctrine is often referred to as the "rule of priority" or the "rule of precedence." In India, the doctrine of lis pendens is recognized under Section 52 of the Transfer of Property Act, 1882, and applies to immovable property. The Indian courts have interpreted the doctrine broadly and have held that it applies to any suit or proceeding where the title to property is in question. Overall, while the doctrine of lis pendens is recognized in many countries around the world, its specific application may vary depending on the legal system and laws of each country.

## OBJECTIVE

- To analyse about the doctrine of lis pendens
- To discuss the applicability of doctrine of lis pendens
- To examine the role of doctrine of lis pendens in preventing parallel proceeding

## REVIEW OF LITERATURE

**Dr. Shiva Kumar (2016).** The author critically examines the doctrine of lis pendens and its purpose of preventing parallel proceedings. The author uses primary data for the research. The study highlights the limitations of the doctrine and its potential for abuse, as well as the need for a balance between the doctrine's purpose and the rights of parties involved in a dispute. **Michael Polkinghorne and Justine Stefanelli (2017).** The authors discuss the application of the doctrine of lis pendens in the context of international commercial arbitration. The author uses primary data for the research. The study highlights the importance of timely communication between courts and tribunals in avoiding conflicting decisions and the potential consequences of a failure to observe the doctrine. **Shobha N (2016).** The study examines the doctrine of lis

pendens and its application in India, focusing on its interpretation and implementation by the Indian courts. The author uses primary data for the research. The article highlights the importance of uniform application of the doctrine across the country and the need for clear guidelines to avoid conflicting decisions. **Abhimanyu Singh and Aditya Bhardwaj (2017)**. authors discuss the impact of the doctrine of lis pendens on third parties and their rights. The author uses primary data for the research. The study highlights the need for a balance between the interests of parties involved in a dispute and the rights of third parties who may be affected by the doctrine's application. **Ivana Kunda and Ana Ašperger (2018)**. The study compares the application of the doctrine of lis pendens in the European Union and national legal systems. The author uses primary data for the research. The article highlights the need for harmonization of the doctrine's application across the EU and the potential consequences of divergent approaches. **Ali M. Al-Khwildi (2017)**. The author examines the relationship between the doctrine of lis pendens and the principle of comity in international law. The author uses primary data for the research. The study highlights the importance of respecting the judicial decisions of other countries and the need for a balance between the interests of parties involved in a dispute and the principles of international comity. **Gopika G (2017)**. The study examines the application of the doctrine of lis pendens in the context of insolvency proceedings. The author uses primary data for the research. The article highlights the importance of balancing the interests of creditors and the need for timely communication between courts and insolvency professionals to avoid conflicting decisions. **N. Sundara Rajan (2015)**. The author examines the relationship between the doctrine of lis pendens and the concept of jurisdiction in Indian law. The author uses primary data for the research. The study highlights the need for clear guidelines on jurisdiction and the potential consequences of conflicting decisions. **G. Varshitha (2015)**. The study examines the relationship between the doctrine of lis pendens and the principle of finality in Indian law. The author uses primary data for the research. The article highlights the importance of respecting the finality of judicial decisions and the potential consequences of conflicting decisions. **Robert J. Jackson (2013)**. The study examines the impact of the doctrine of lis pendens on real estate transactions. The author uses primary data for the research. The article highlights the importance of timely communication between courts and parties involved in a real estate transaction to avoid conflicting decisions. **Celine Huijboom (2014)**. The study compares the application of the doctrine of lis pendens in the context of bankruptcy in different legal systems. The author uses primary data for the research. The article highlights the need for clear guidelines on the doctrine's application in insolvency proceedings. **M. S. N. Reddy (2014)**. The author examines the application of the doctrine of lis pendens in the context of international investment disputes. The author uses primary data for the research. The study highlights the importance of respecting the jurisdiction of international tribunals and the potential consequences of conflicting decisions. **Sujatha N (2013)**. The study examines the impact of the doctrine of lis pendens on alternative dispute resolution mechanisms. The author uses primary data for the research. The article highlights the need for a balance between the doctrine's purpose and the principles of dispute resolution. **John J. Kafoury (2015)**. The author examines the application of the doctrine of lis pendens in the context of intellectual property disputes. The author uses primary data for the research. The study highlights the importance of timely communication between courts and the need for a balance between the doctrine's purpose and the rights of parties involved in the dispute. **Rohit R. Pai (2015)**. The study examines

the impact of the doctrine of lis pendens on jurisdictional disputes. The author uses primary data for the research. The article highlights the need for clear guidelines on the doctrine's application in different jurisdictions. **S. Suresh**. The study examines the impact of the doctrine of lis pendens on public interest litigation. The author uses primary data for the research. The article highlights the need for a balance between the doctrine's purpose and the interests of the public. **P. S. Suresh (2011)**. The study examines the impact of the doctrine of lis pendens on consumer disputes. The author uses primary data for the research. The article highlights the importance of timely communication between courts and consumer forums to avoid conflicting decisions. **N. R. Shetty (2014)**. The study examines the application of the doctrine of lis pendens in the context of family law matters. The author uses primary data for the research. The article highlights the importance of a uniform approach to the doctrine's application across different family law disputes. **H. S. Reddy (2019)**. The study examines the impact of the doctrine of lis pendens on international litigation. The author uses primary data for the research. The article highlights the importance of harmonization of the doctrine's application across different legal systems to avoid conflicting decisions. **N. V. Murali (2022)**. The study examines the application of the doctrine of lis pendens in cross-border litigation. The article highlights the need for clear guidelines on the doctrine's application in different legal systems to avoid conflicting decisions. The author also emphasizes the importance of communication between courts in different jurisdictions and the need for cooperation to resolve conflicts arising from the doctrine's application.

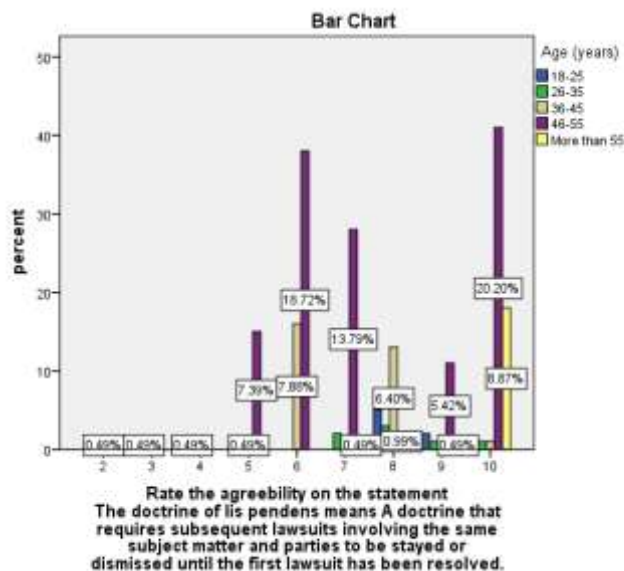
## METHODOLOGY

This study uses primarily data which has been collected from 203 responses with convenient sampling. The research method used here is descriptive method. The information like age, gender, educational qualification, locality, employment, Rate the agreeability on the statement The doctrine of lis pendens means A doctrine that requires subsequent lawsuits involving the same subject matter and parties to be stayed or dismissed until the first lawsuit has been resolved, Do you think doctrine of lis pendens applicable to all cases ?, The doctrine of lis pendens is applicable when the right of title of an immovable property is directly and specifically in question, The major benefits of the doctrine of lis pendens, The doctrine of lis pendens is an important tool for preventing parallel proceedings and promoting judicial efficiency.



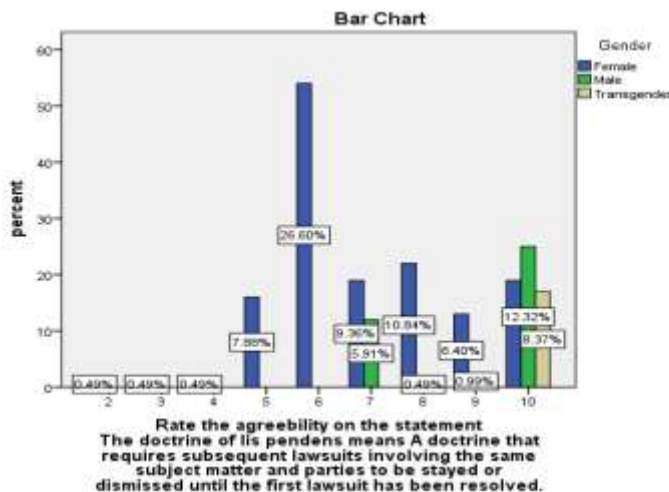
DATA ANALYSIS AND INTERPRETATION

FIGURE 1



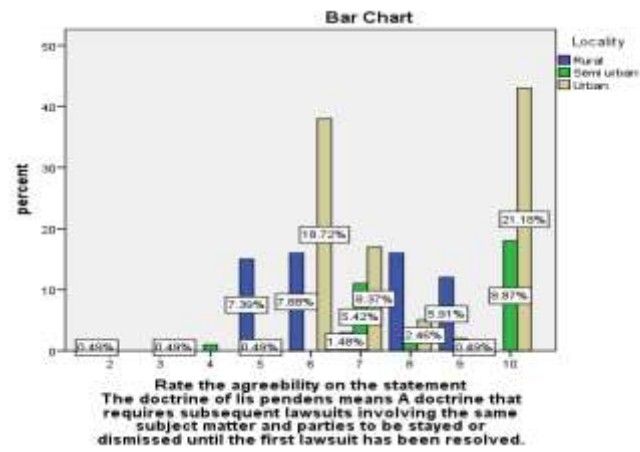
**LEGEND** This figure shows the age wise opinion for the agreeability on the statement .The doctrine of lis pendens means A doctrine that requires subsequent lawsuits involving the same subject matter and parties to be stayed or dismissed until the first lawsuit has been resolved

FIGURE 2



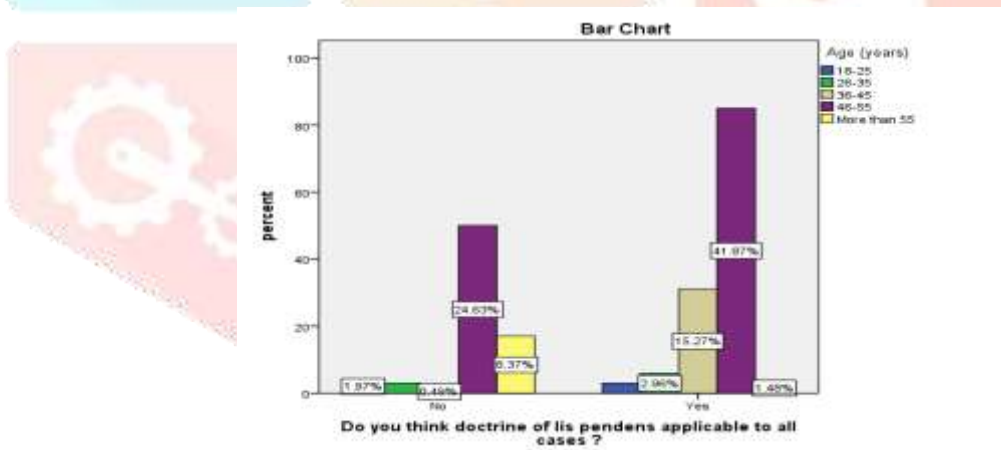
**LEGEND** This figure shows the gender wise opinion for the agreeability on the statement.The doctrine of lis pendens means A doctrine that requires subsequent lawsuits involving the same subject matter and parties to be stayed or dismissed until the first lawsuit has been resolved

FIGURE 3



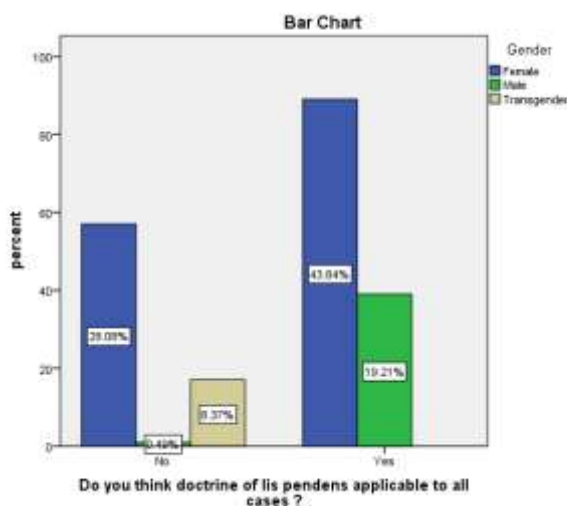
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FIGURE 4



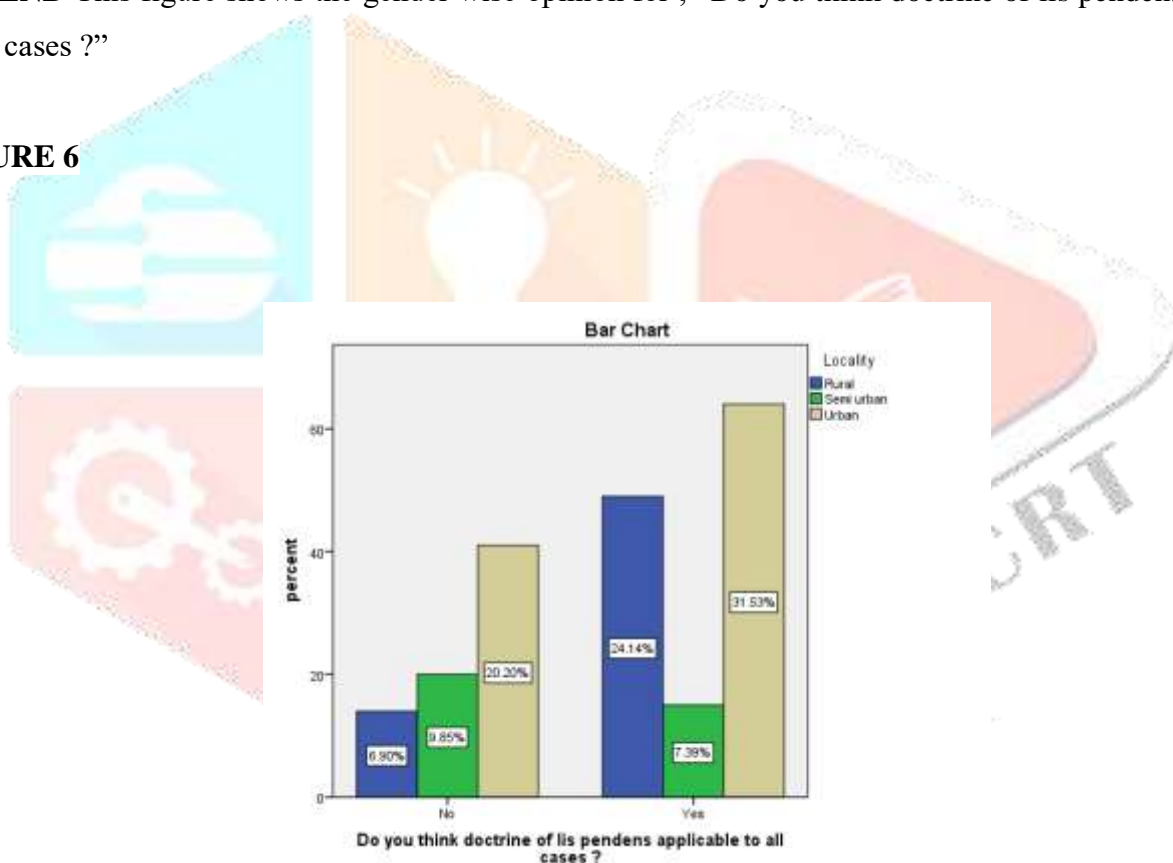
**LEGEND** This figure shows the age wise opinion for , “Do you think doctrine of lis pendens applicable to all cases ?”

FIGURE 5



**LEGEND** This figure shows the gender wise opinion for , “Do you think doctrine of lis pendens applicable to all cases ?”

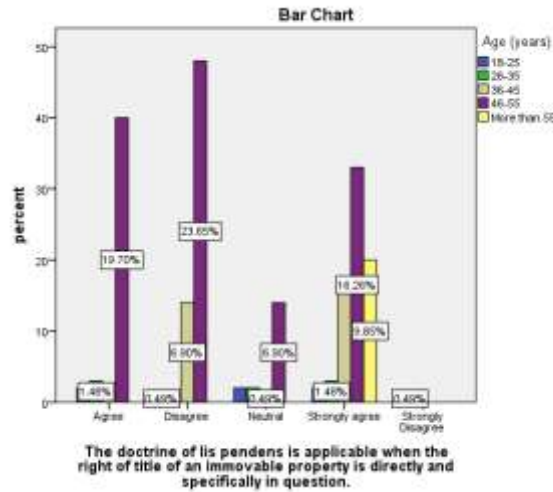
FIGURE 6



**LEGEND** This figure shows the locality wise opinion for , “Do you think doctrine of lis pendens applicable to all cases ?”

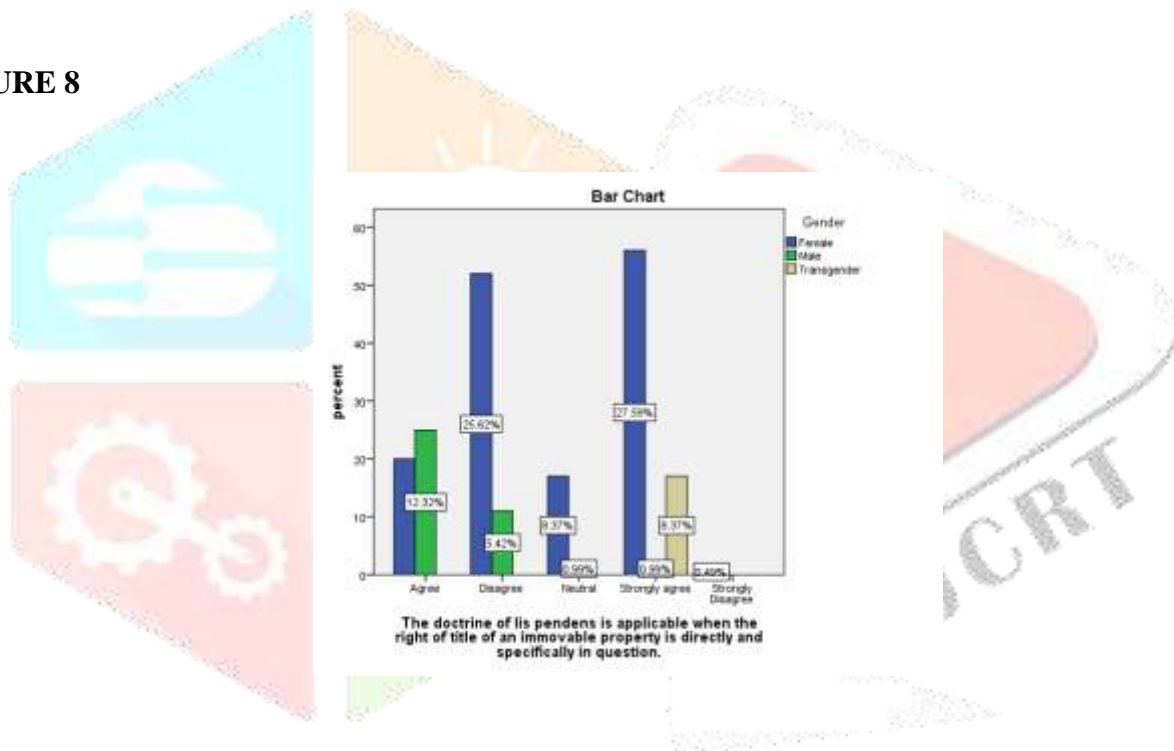


**FIGURE 7**



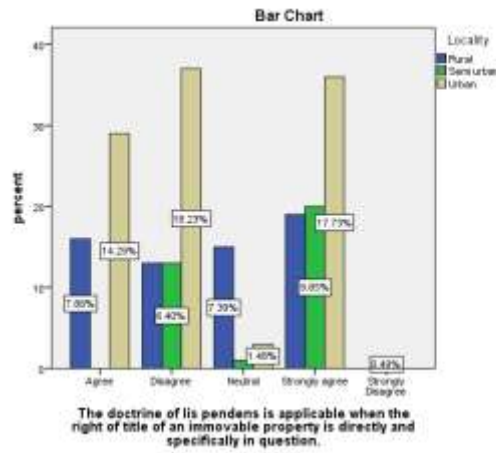
**LEGEND** This figure shows the age wise opinion for , “The doctrine of lis pendens is applicable when the right of title of an immovable property is directly and specifically in question.”

**FIGURE 8**



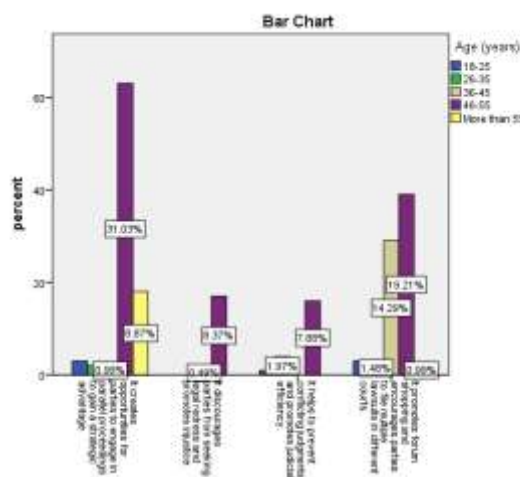
**LEGEND** This figure shows the gender wise opinion for , “The doctrine of lis pendens is applicable when the right of title of an immovable property is directly and specifically in question.”

FIGURE 9



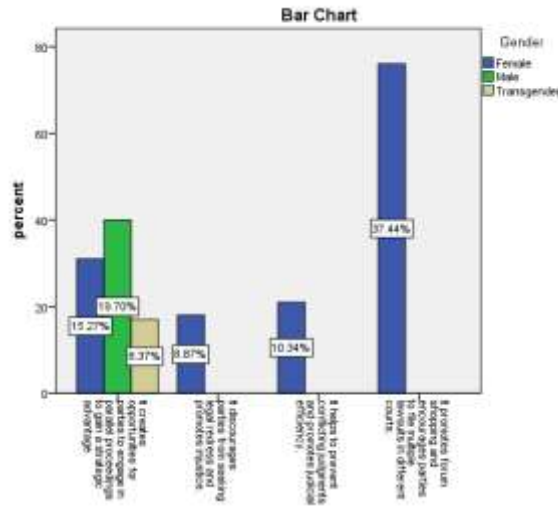
**LEGEND** This figure shows the gender wise opinion for , “The doctrine of lis pendens is applicable when the right of title of an immovable property is directly and specifically in question.”

FIGURE 10



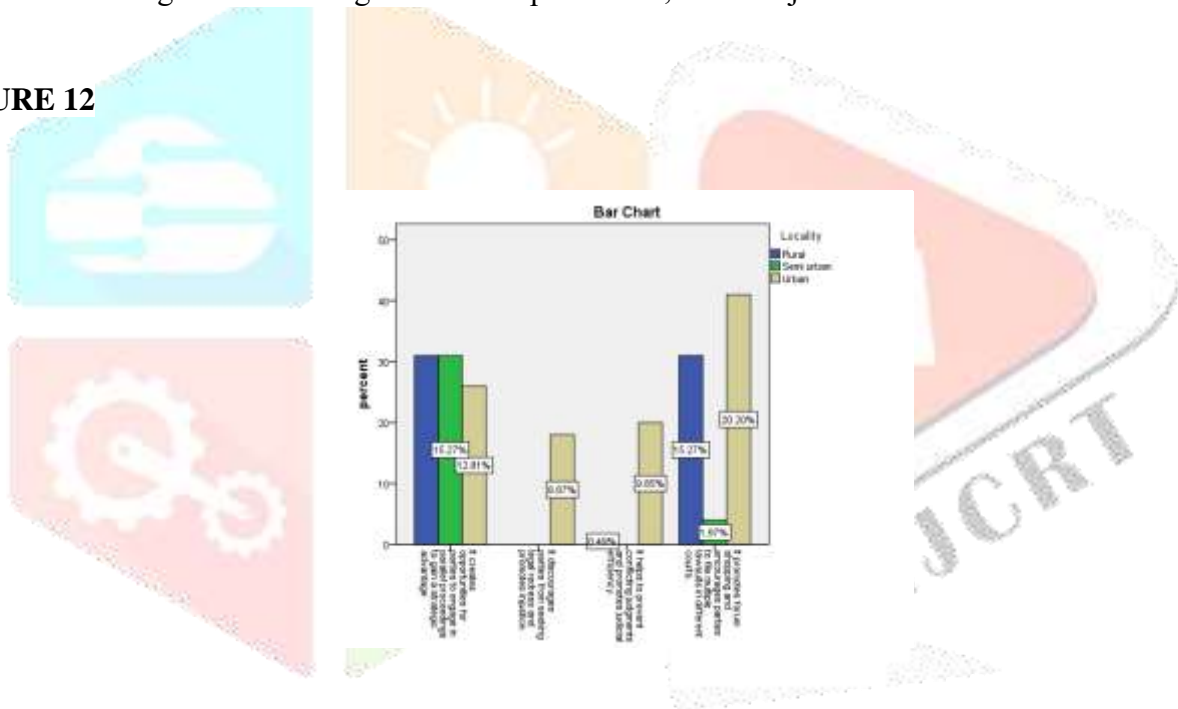
**LEGEND** This figure shows the age wise opinion for , “The major benefits of the doctrine of lis pendens”

FIGURE 11



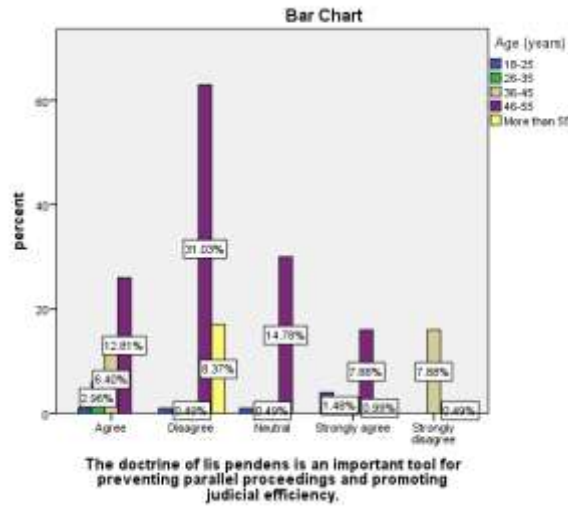
LEGEND This figure shows the gender wise opinion for , “The major benefits of the doctrine of lis pendens”

FIGURE 12



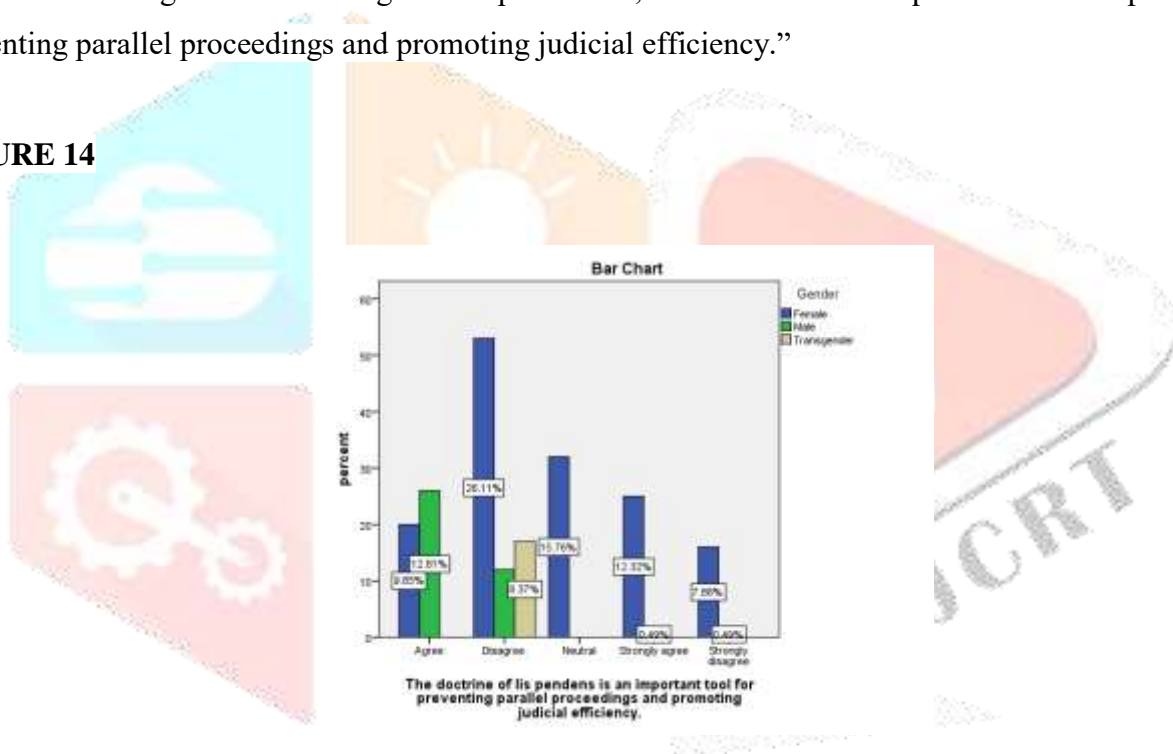
LEGEND This figure shows the locality wise opinion for , “The major benefits of the doctrine of lis pendens”

FIGURE 13



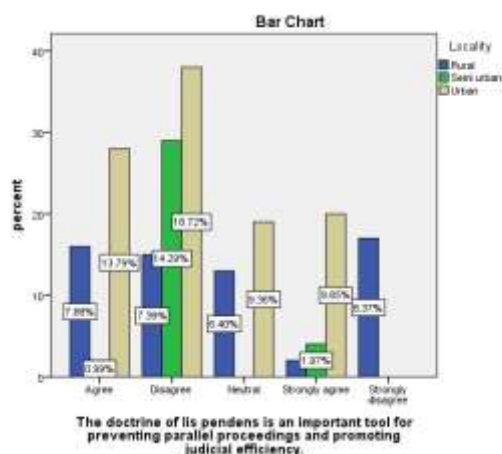
**LEGEND** This figure shows the age wise opinion for , “The doctrine of lis pendens is an important tool for preventing parallel proceedings and promoting judicial efficiency.”

FIGURE 14



**LEGEND** This figure shows the gender wise opinion for , “The doctrine of lis pendens is an important tool for preventing parallel proceedings and promoting judicial efficiency.”

## FIGURE 15



**LEGEND** This figure shows the locality wise opinion for , “The doctrine of lis pendens is an important tool for preventing parallel proceedings and promoting judicial efficiency.”

## RESULT

**From the figure 1** , most of the people of age 46-55 (20.20%) rate 9 for the statement The doctrine of lis pendens means A doctrine that requires subsequent lawsuits involving the same subject matter and parties to be stayed or dismissed until the first lawsuit has been resolved.**From the figure 2** , most of the female (26.60%) rate 6 for the statement The doctrine of lis pendens means A doctrine that requires subsequent lawsuits involving the same subject matter and parties to be stayed or dismissed until the first lawsuit has been resolved..**From the figure 3** , most of the people of locality of urban(18.72%) rate 6 for the statement The doctrine of lis pendens means A doctrine that requires subsequent lawsuits involving the same subject matter and parties to be stayed or dismissed until the first lawsuit has been resolved.**From the figure 4** , most of the people of age 46-55 (41.87%) said yes for the statement Do you think doctrine of lis pendens applicable to all cases ?**From the figure 5** , most of the female (43.84%) said yes for the statement Do you think doctrine of lis pendens applicable to all cases ?**From the figure 6** , most of the people of locality of urban(31.53%)said yes for the statement Do you think doctrine of lis pendens applicable to all cases ?**From the figure 7** , most of the people of age 46-55 (19.70%) agreed that The doctrine of lis pendens is applicable when the right of title of an immovable property is directly and specifically in question..**From the figure 8**, most of the male (12.32 %) agreed that The doctrine of lis pendens is applicable when the right of title of an immovable property is directly and specifically in question..**From the figure 9**, most of the people urban (14.29 %) agreed that The doctrine of lis pendens is applicable when the right of title of an immovable property is directly and specifically in question.**From the figure 10** , most of the people of age 46-55 (31.03%) said The major benefits of the doctrine of lis pendens is It helps to prevent conflicting judgments and promotes judicial efficiency.**From the figure 11** , most of the male (19.70%) said The major benefits of the doctrine of lis pendens is It helps to prevent conflicting judgments and promotes judicial efficiency..**From the figure 12** , most of the people of urban (12.81%) said The major benefits of the doctrine of lis pendens is It helps to

prevent conflicting judgments and promotes judicial efficiency. **From the figure 13**, most of the people of age 46-55 (14.78%) are neutral with the opinion that The doctrine of lis pendens is an important tool for preventing parallel proceedings and promoting judicial efficiency. **From the figure 14**, most of the female (15.76%) are neutral with the opinion that The doctrine of lis pendens is an important tool for preventing parallel proceedings and promoting judicial efficiency. **From the figure 15**, most of the people of urban (9.36%) are neutral with the opinion that The doctrine of lis pendens is an important tool for preventing parallel proceedings and promoting judicial efficiency.

## DISCUSSION

**From the figure 1, 2, & 3**, most of the people rate 9 for the statement The doctrine of lis pendens means A doctrine that requires subsequent lawsuits involving the same subject matter and parties to be stayed or dismissed until the first lawsuit has been resolved. It requires that these subsequent lawsuits be stayed or dismissed until the first lawsuit, which is already in progress, has been resolved. **From the figure 4, 5 & 6**, most of the people agreed that the doctrine of lis pendens applied to all. The doctrine of lis pendens is not universally applied in the same manner across all jurisdictions. While the core principle of lis pendens remains consistent, its application can vary depending on the specific legal systems and laws of different countries or regions. **From the figure 7, 8 & 9**, most of the people strongly agreed that The doctrine of lis pendens is applicable when the right of title of an immovable property is directly and specifically in question. **From the figure 10, 11 & 12**, most of the people said The major benefits of the doctrine of lis pendens is It helps to prevent conflicting judgments and promotes judicial efficiency. The doctrine of lis pendens offers several benefits that contribute to the prevention of conflicting judgments and the promotion of judicial efficiency. Some of the major advantages include Avoiding Conflicting Judgments, Judicial Efficiency, Preserving Judicial Resources, Ensuring Fairness and Orderliness. **From the figure 13, 14 & 15**, most of the people agreed that The doctrine of lis pendens is an important tool for preventing parallel proceedings and promoting judicial efficiency. By consolidating related disputes into a single proceeding, lis pendens promotes judicial efficiency. It allows the court to focus its resources on one comprehensive case rather than dealing with multiple cases addressing the same subject matter.

## LIMITATION

The major limitation of the study is the sampling frame. The response were collected from the people who have less knowledge about legal proceedings so this lead to the slight interpretation in the research.

## SUGGESTION

It discovered that doctrine of lis pendens is not applicable to all cases and only applicable to the cases in which litigation is pending. Doctrine of lis pendens applied in the principles of equity which means Equity is a



separate system of law from the Common-Law. It has different rules, principles, and remedies. Thus, to understand the principles on which the Law of Equity is based, we must understand its origin and the reasons for its requirement despite the presence of a system of law. The doctrine literally means pending suit in court of law. This doctrine of lis pendens does not apply when property has been transferred by a stranger.

## CONCLUSION

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. The transfer made during the ongoing suit is not void but voidable at the instance of the affected party. 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. 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 party 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. It discovered that doctrine of lis pendens is not applicable to all cases and only applicable to the cases in which litigation is pending. Doctrine of lis pendens applied in the principles of equity which means Equity is a separate system of law from the Common-Law. It has different rules, principles, and remedies. Thus, to understand the principles on which the Law of Equity is based, we must understand its origin and the reasons for its requirement despite the presence of a system of law. The doctrine literally means pending suit in court of law. This doctrine of lis pendens does not apply when property has been transferred by a stranger.

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