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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.3137 of 2015

Date of decision: May 11, 2015

Gayatri Dewan

.....Petitioner

Versus

Sumant Rai Dewan and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Lokesh Sinhal, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the orders dated 23.02.2013 and 25.03.2015.

Learned counsel for the petitioner has submitted that a perusal of the letter (Annexure P-4) itself reveals that it was a result of fraud and coercion. The Courts below had erred in not granting the relief of temporary injunction to the petitioner. In support of his arguments, learned counsel has placed reliance on ***Maharwal Khewaji Trust (Regd.), Faridkot versus Baldev Dass***, 2004(4) R.C.R. (Civil) 760, wherein, it was held as under:

“Be that as it may, Mr. Sachhar is right in contending that unless and until a case of irreparable loss or damage is made out by a party to the suit, the court should not permit the nature of the property being changed which also includes alienation or transfer of the property which may lead to loss or damage being caused to the party who may ultimately succeed and may further lead to multiplicity of proceedings. In the instant case no such case of irreparable loss is made

out except contending that the legal proceedings are likely to take a long time, therefore, the respondent should be permitted to put the scheduled property to better use. We do not think in the facts and circumstances of this case, the lower appellate court and the High Court were justified in permitting the respondent to change the nature of property by putting up construction as also by permitting the alienation of the property, whatever may be the condition on which the same is done. In the event of the appellant's claim being found baseless ultimately, it is always open to the respondent to claim damages or, in an appropriate case, the court may itself award damages for the loss suffered, if any, in this regard. Since the facts of this case do not make out any extraordinary ground for permitting the respondent to put up construction and alienate the same, we think both the courts below, namely, the lower appellate court and the High Court erred in making the impugned orders. The said orders are set aside and the order of the trial court is restored.

The appeal is allowed.”

Petitioner has filed suit for declaration and permanent injunction. Alongwith the suit, petitioner moved an application under Order 39 Rule 1 and 2 of Code of Civil Procedure, 1908 for temporary injunction. Trial Court vide order dated 23.02.2013 dismissed the application for temporary injunction and the said order was upheld in appeal by the Appellate Court vide order dated 25.03.2015. Hence, the present petition.

The case of the petitioner is that the letter dated 20.12.2010 (Annexure P-4) was a result of fraud and coercion.

In fact, the said letter, whereby the petitioner had given her consent for transfer of the property in question, in favour of respondent No.1, was a result of fraud and coercion. Admittedly, petitioner is in possession of the property in question. By way of interim injunction, petitioner had sought a direction to the respondent No.1 not to alienate the said property during the pendency of the suit property. Letter (Annexure P-4) is admittedly signed by the petitioner. Petitioner is yet to lead her evidence to establish that the said letter is a result of fraud and coercion. In these circumstances, the learned Courts below rightly held that the petitioner had no prima facie case or balance of convenience in her favour, as at this stage, there was no material on record to come to the conclusion that the letter (Annexure P-4) was a result of fraud or coercion.

I have gone through the judgment relied upon by the learned counsel for the petitioner, but the same fails to advance the case of the petitioner as it is based on different facts.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

May 11, 2015
m.singh