

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

Civil Revision No.3359 of 2015

Date of decision:18.05.2015

Ram Kishan

... Petitioner

versus

Sukhdev Singh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Hitesh Kaplish, Advocate,
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The petition is at the instance of the defendant, who fended off the plaintiff's claim for injunction at the first court by making reliance on an alleged exchange deed which was unregistered, in terms of which the plaintiff, who was admittedly the beneficiary of allotment from the government was said to have allowed the defendant to take possession in lieu of some property which the defendant was giving to the plaintiff. It was also the contention of the defendant that contemporaneous to the exchange deed, a power of attorney was also given by the plaintiff to the petitioner/defendant's son authorizing him to take possession of the property.

2. The trial Court rejected the plea of injunction claimed by the plaintiff on the basis of allotment from the State to some members of Harijan community of which the plaintiff himself was a member acting on the exchange deed set up by the defendant. In appeal by the plaintiff against the interim order declining injunction, the appellate court reasoned that it was an admitted case that the property had been allotted only to the plaintiff for carrying on some avocation and, therefore, there was a presumption that he was in lawful possession. If the defendant was setting up a case of exchange which was denied by the plaintiff, it could be considered only at the time of trial and there was nothing to suggest that the defendant himself was in possession otherwise than through exchange which he was propounding.

3. Even apart from the reasoning adopted by the lower appellate court, I would find that if the terms of exchange had been put into writing and if created the bargain between parties and purported to be in relation to immovable property, the document would require to be registered under Section 17 of the Registration Act and the absence of registration would invite the consequences of Section 49 of the Registration Act which will operate to create a fetter for proof of any transaction relating to immovable property. The plaintiff surely had a prima facie case in the manner which the lower appellate court has considered and I do not think that there is

any scope for intervention.

4. The learned counsel states that the court can order status quo. Any interim order is issued only for the preservation of the status quo and it is the duty of every court that passes an order to state what the status quo is. The lower appellate court has found the plaintiff to be in possession and has granted injunction. I declare the status quo to be in the manner that the lower appellate court has observed and uphold the same and dismiss the revision petition.

(K.KANNAN)
JUDGE

18.05.2015
sanjeev