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

CR No.3912 of 2015

Date of decision: July 02, 2015

Jatinder Pal Singh and another

.....Petitioners

Versus

Parkash Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.K. Chhibbar, Senior Advocate with
Mr. Vikas Cuccria, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition challenging the orders dated 29.04.2014 and 30.05.2015.

Learned Senior counsel for the petitioners has submitted that Parkash Kaur (since deceased) had executed a Will in favour of petitioner No.2. After the death of her husband, Parkash Kaur had become mentally sick and the Will set up by respondent No.2 executed in her favour by Parkash Kaur (since deceased), was a result of fraud.

Petitioner No.1 is the son of Parkash Kaur (since deceased), whereas, the respondent No.2-Manjit Kaur is the daughter of Parkash Kaur (since deceased). Petitioners have filed suit for declaration to the effect that Parkash Kaur was insane and was of unsound mind and hence challenged the General Power of Attorney and registered Will dated 30.01.2013 executed by Parkash Kaur (since deceased) in

favour of respondent No.2-Manjit Kaur. Alongwith the suit, an application for temporary injunction under Order 39 Rule 1 and 2 Code of Civil Procedure, 1908 ('CPC' for short) was filed.

Trial Court vide order dated 29.04.2014 dismissed the application for temporary injunction on the ground that at this stage, there was no conclusive evidence on record that Parkash Kaur was insane and was of unsound mind. Further, nothing could be said about the genuineness of the Wills propounded by the petitioners without there being any evidence on record. Moreover, Parkash Kaur (who was alive at that time) was the owner of the suit property. The reasons given by the trial Court while dismissing the application for temporary injunction are sound reasons. Parkash Kaur, who was the owner of the property in question, could not be restrained from alienating, transferring or mortgaging the suit property during the pendency of the suit as during her lifetime, she could deal with her property in a manner she liked. Parkash Kaur died on 12.12.2014. The Appellate Court while dismissing the appeal filed by the petitioners, vide order dated 30.05.2015 against the order passed by the trial Court dated 29.04.2014, held that the order passed by the trial Court was liable to be upheld as it had been passed as per the situation prevalent at that time. During the course of arguments, it has transpired that respondent No.2 has

already sold the property. Since Manjit Kaur has already sold the property, therefore, no direction can be issued to her not to alienate the property on the basis of the Will executed in her favour by Parkash Kaur.

Hence, in the facts and circumstances of the present case, no ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

July 02, 2015
mahavir