

CR No.51 of 2015

[1]

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

CR No.51 of 2015

Date of decision:07.01.2015

Pehlu

...Petitioner

Versus

Angoor

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Mohan Singh, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

This petition is against the order dated 03.09.2014, dismissing the application filed by the petitioner for stay.

In short, the petitioner filed suit for declaration and permanent injunction alleging that he is owner and in possession of the suit property to the extent of ½ share and the sale deed dated 29.10.2007 is illegal. He also prayed for permanent injunction to restrain the defendant from alienating the suit property.

The trial Court discussed issues no.1 to 3 together and found that neither the petitioner is in possession of the suit land nor any evidence has been led to prove that the sale deed dated 29.10.2007 has been executed fraudulently. While dismissing the suit filed by the petitioner vide its judgment and decree dated 11.08.2014, the trial Court also held that the plaintiff had no *locus standi* and cause of action to maintain the suit and is estopped by his own act and conduct as he has raised no objection during the life time of his father.

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Aggrieved against the judgment and decree dated 11.08.2014 passed by the learned trial Court, the plaintiff filed first appeal along with an application for temporary injunction to restrain the defendant from alienating the suit property but the said application has been dismissed by the lower Appellate Court vide the impugned order.

Counsel for the petitioner has submitted that the lower Appellate Court has committed an error in dismissing his application for temporary injunction as the appeal was admitted by the lower Appellate Court with an observation that there are some arguable points in it.

After hearing learned counsel for the petitioner and examining the record, I am of the considered opinion that since the trial Court, while dismissing the suit of the plaintiff-petitioner, has categorically observed that neither he is in possession of the suit land nor the sale deed under challenge is an act of fraud, therefore, the plaintiff has no right, title or interest in the suit property.

Even during the course of hearing, learned counsel for the petitioner has failed to make out any case for grant of injunction during the pendency of appeal as he has failed to prove fraud having been committed by the vendor in execution of the sale deed of the suit property in favour of the defendant.

In view thereof, I do not find any merit in the present revision petition and hence, the same is hereby dismissed.

January 07, 2015
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(**Rakesh Kumar Jain**)
Judge