

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

CR No. 6788 of 2013 (O&M)

Date of decision: October 30, 2015

Ram Singh and others

...Petitioners

Versus

Prem Lal Dareja and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Ajay Jain, Advocate,
for the petitioners.

K. KANNAN, J. (Oral)

1. The petitioners are the plaintiffs whose claim for injunction was dismissed. The suit was rested on a plea that the plaintiffs' predecessor Bhagirath had been originally a *gair marusi* with reference to the suit property and later the 1st defendant, who is admittedly the owner of the property, sold 12 kanals in favour of the plaintiffs and the 2nd defendant through two documents of even date dated 3.7.2013. The plaintiffs would contend that on the same day yet another document was prepared by the 1st defendant fraudulently that purported to hand over the remaining extent of property of about 37 kanals to the 1st defendant himself. The plaintiffs, therefore, seek for the relief that the alleged release said to have been executed by the plaintiffs and the 2nd defendant termed as taraknama was brought by the 1st defendant in collusion with the plaintiffs' own brother, the

2nd defendant and that the said document was not valid.

2. I must observe that the plaintiffs do not have a prima facie case for sustaining the relief of injunction since they were trying to plead for a declaration that the relinquishment deed purported to have been executed by the plaintiffs along with 2nd defendant was not true and that it had been fabricated by the 1st defendant. A document which on its face contemplates that the plaintiff has released his interest must obtain the credibility that document requires and the plaintiffs have a long way to go before they can establish the fraud purported to have been practiced by the 1st defendant. A sweeping statement that the documents are forged, invalid and void cannot be taken at its face value, if the plaintiffs do not find support from their own brother and arrayed him as a 2nd defendant.

3. Learned counsel has an alternative argument to make that after they purchased the property of 12 kanals, they must be treated as co-owners with the 1st defendant for the remaining extent of property and, therefore, the 1st defendant cannot trespass or cause problem to any extent of the plaintiffs' own purchase and his remedy will be only to suit for partition. The argument is legally flawed, for, a purchaser of a portion of a larger extent, if he is threatened in his enjoyment, must alone file his own independent action, if he seeks for predicated a property sold to him and cannot compel the admitted owner of the property to file a suit for partition. Even otherwise, the plaintiffs who are not prepared to relinquish a portion of the property covered through the taraknama and contend that the property was never surrendered and still held by them cannot have a mutually destructive argument that the 1st defendant is a co-owner with them and that

the defendant must apply for partition.

4. The relief of injunction was correctly declined by the courts below and I find no justification for interference in revision.

5. The revision petition is dismissed.

October 30, 2015
prem

(K.KANNAN)
JUDGE