

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.7992 of 2013

Date of Decision: 25.08.2015

Ishwar and Others

.....Petitioners

Vs.

Ram Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.G.S.Gandhi, Advocate for the petitioners.

Mr.J.P.Sharma, Advocate for respondent No.1.

RITU BAHRI, J. (ORAL)

This revision has been filed against the order dated 10.10.2013 passed by the learned Additional District Judge, Narnaul, whereby the present appellants have been restrained from alienating the land in dispute given to appellant No.3 by appellant No.1 in a gift deed.

The plaintiff-respondent had filed a suit challenging the gift deed No.950 dated 05.10.2009, executed by defendant No.1 in favour of defendant No.3. The property in dispute was inherited by defendant No.1 as he being the Karta could not give ancestral property as gift in favour of defendant No.3 without any legal necessity.

The trial Court had dismissed an application under Order 39 Rule 1 and 2 CPC, filed by the respondent that as no injunction would be just and maintainable against the Karta in view of the judgment laid down in case of **Kailash Chand Vs. Bajrang Lal and Others AIR 1997 Rajasthan 205** as the equal efficacious remedy was available to the plaintiff to file suit for partition and to set aside sale deed if any. However, in appeal the impugned order was set aside as the land is ancestral in nature, defendant No.1 has not stated any reason as to

why he has gifted the land in favour of defendant No.3.

After hearing learned counsel for the parties and going through the order passed in ESA No.1163 of 2007, it is borne out that with respect to land measuring 19 kanals 12 marlas land falling in Khasra No.33/18/1 in which the plaintiff has claimed 1/6th share. The dispute had been settled by the appellants by making payment on account of loan which had been taken by the plaintiff and stated that some land was being auctioned from Khasra No.33/18/1 in the present suit Annexure P-2. No injunction has been granted with regard to the land measuring 19 kanals and 12 marlas.

The dispute between the parties is with regard to the impugned gift deed by which the ancestral land has been given by defendant No.1-Karta of the family in favour of defendant No.3 without any legal necessity. This land is comprising 8 kanals and 11 marlas bearing Vasika No. 950 dated 05.10.2009, where, the plaintiff has 1/6th share which comes to 2 kanals of the land.

Keeping in view the above fact, the order dated 10.10.2013 is being modified and the appellants are restrained from alienating the land beyond 6 kanals of land gifted to the petitioner No.3-Smt.Laxmi by petitioner No.1-Ishwar.

Accordingly, revision stands disposed of.

25.08.2015
anil

(RITU BAHRI)
JUDGE