

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 1149 of 2016

Date of Decision: 15.02.2016

Madhu Jagdeo and Another

... Petitioner(s)

Versus

Om Parkash Mehendiratta and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Bharat Bhushan Sharma, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present petition is against orders dated 7.2.2015 & 20.10.2015, passed by both the Courts below on an application under Order 39 Rules 1 & 2 CPC read with Section 151 CPC and the appeal having been dismissed by first Appellate Court.

Relevant facts of the case that present petitioners are willing to purchase property in question for investment. Respondent No.1 is father of the petitioners and he asked them to send the money. On the assurance of respondent No.1, petitioners sent some money to the account of respondent No.1 and had given most of the amount in

cash to respondent No.1, who purchased the property in his own name. Petitioners visited India in the year 2010 and requested the respondent No.1 to transfer the said property in their names. Respondent No.1, without the consent of the petitioners, executed the Will in favour of petitioners and two other sisters and grandsons. Petitioners opposed the said Will on the ground that the property in question was purchased on the payment of money sent by them. Petitioners came to know that respondent No.2 took respondent No.1 to Tehsil Faridabad and got registered the Will, executed on 8.1.2013, in the name of respondent No.2. The action of respondents was totally illegal and an application under Order 39 Rules 1 & 2 was filed by the petitioners for restraining the respondents from alienating the suit property. The said application was dismissed vide order dated 7.2.2015 and appeal, filed before the first Appellate Court, was also dismissed.

Learned counsel for the petitioners submitted that both the Courts below have not considered the correct facts as the payment was sent through Western Union and US dollars were encashed by respondent No.1 in the Head Post Office, Faridabad. That way petitioner had made the total payment of Rs 5,58,281/- and against that, the house in question was purchased for a total cost of Rs. 5,32,000/-. But the Courts below have not considered these facts. Petitioners prayed that present petition be accepted.

Having considered the submissions made by learned counsel for the petitioners and gone through the record of the case, this Court is of the considered view that the Courts below have rightly

appreciated the material and documents available on the file and came to the conclusion that there was no such document available on the file showing that present petitioners contributed for purchase of suit property or they have got any right thereto. To the contrary, documents available on the file clearly show that suit property is self acquired property of respondent No.1 and no injunction order can be granted against true owner. The said findings of facts have been affirmed by the first Appellate Court and at this stage, there is nothing on the file so as to interfere in the concurrent findings of both the Courts below on this point. Present petition is without any merit and the same stands dismissed, in limine.

(Shekher Dhawan)
Judge

February 15, 2016
"DK"/anju