

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2718 of 2016

Date of Decision.21.04.2016

Gurvinder Kaur

.....Petitioner

Vs.

Rajwinder Kaur and others

.....Respondent

Present: Mr. Yogesh Chaudhary, Advocate
for the petitioner.

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?

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K. KANNAN J. (ORAL)

1. Pending suit brought at the instance of the plaintiff complaining that sale in favour of the defendant had been made during the minority of the plaintiff, the trial Court had declined an order of injunction but the Appellate Court has granted relief of injunction against sale of the property. The defendant who had obtained a sale is before this Court to contend that the trial Court had correctly relied on the birth certificate to determine that he was a major at the relevant time and there is no scope for modification of the same at the Appellate Court.

2. The nature of relief granted is that it cannot cause any prejudice to the defendant, for it is not his own enjoyment in relation to the property that has not been fettered but the defendant has only been prevented from making any further alienation. In a suit where the issue is whether it was a minor's interest involved at the time when the

sale was taking place, it was appropriate that any further alienation was prevented only to ensure that no third party interest was brought in to cause any obstruction. The plaintiff surely had a prima facie case to contend that date of birth as entered in the school certificate made a possible sure inference that he was a minor at the relevant time.

3. I do not find any cause for intervention. However, if there is any particular compulsion for a defendant to alienate the property and plaintiff's interest can be in any way protected even if a sale is directed to be taken, the defendant may approach the Court setting out the compulsion that necessitates such a sale and if any change of circumstance is shown at later point of time, the Court will consider such a prayer when an application is moved and pass appropriate order after taking objection from the plaintiff.

4. The revision petition is dismissed but with the above observations.

(K. KANNAN)
JUDGE

April 21, 2016
Pankaj*