

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

**Civil Revision No.3466 of 2016 (O&M)
Date of decision : 18.05.2016**

Ashok Kumar

.....Petitioner

Versus

Ravinder Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. S.S. Khurana, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred by the petitioner-plaintiff against the judgment dated 02.05.2016 passed by the learned Additional District Judge, Rewari vide which the miscellaneous civil appeal filed by respondents No.1 & 2-defendants has been allowed and the application for grant of temporary injunction under Order 39 Rules 1 & 2 read with Section 151 of the Code of Civil Procedure, 1908 (for short the 'CPC') has been dismissed.

2. The petitioner-plaintiff has filed the suit for declaration with consequential relief of permanent injunction on the grounds inter alia that Matadin and Patram defendants-respondents No.5 & 6 have never gifted the

suit property in favour of Kalawati. He has challenged the registered gift deed No.488 dated 13.05.2002 allegedly executed by Matadin and Patram in favour of Kalawati on the ground that the donors never intended to gift the suit property in her favour and actually they wanted to execute the gift deed in favour of the plaintiff. Said Kalawati was not present on the date of execution and registration of the gift deed, rather the plaintiff had appeared, so he continued to be the owner in possession of the suit land. Hence, the suit and application for grant of ad interim injunction on the similar lines.

3. The suit as well as stay application have been contested by respondents No.1 to 4 on the grounds inter alia that the gift deed executed in favour of their mother was legal and valid and they are owners in possession of the suit property. The mutation of inheritance of their deceased mother Kalawati has been rightly sanctioned in their favour. All other pleas raised in the plaint have been controverted.

4. The learned trial Court directed the parties to maintain status quo with respect to the possession and alienation of the suit property. Defendants-respondents No.1 & 2 preferred the appeal against order dated 15.07.2014 passed by the learned trial Court. The appeal has been allowed by the learned Additional District Judge, Rewari vide impugned judgment dated 02.05.2016 and the stay application moved by the appellant was dismissed.

5. I have heard learned counsel for the petitioner and gone through the paper-book carefully.

6. Learned counsel for the petitioner contended that the

petitioner is owner in possession of the suit land. Matadin and Patram had never intended to gift away the property in favour of Kalawati, the predecessor-in-interest of the defendants. She was not related to them in any manner. He further contended that said Kalawati was not present at the time of execution and registration of gift deed rather the plaintiff-petitioner was present at the time of execution and registration of the gift deed. He had even been described as a donee in the gift deed. Thus, he contended that Matadin and Patram had intended to gift the suit property to the petitioner-plaintiff and he came in possession of the suit property. Thus, he is entitled for injunction. The learned appellate Court has wrongly reversed the well reasoned order passed by the learned trial court.

7. I have duly considered the aforesaid contentions.

8. It is settled principle of law that in order to secure the relief of ad interim injunction, the petitioner-plaintiff was required to establish the prima facie case and balance of convenience in his favour and that he will suffer the irreparable loss if the injunction is refused. Admittedly, the petitioner-plaintiff was not related to said Matadin and Patram. So, he has no vested right in the suit property. He has simply based his claim on the plea that he was present at the time of execution and registration of the gift deed No.488 dated 13.05.2002 and he has been described as a donee therein. But this plea has prima facie no force. No doubt in the endorsement of the Joint Sub Registrar he has been mentioned as donee, but the conclusion has to be derived by reading the entire contents of the gift deed, wherein it has been categorically mentioned that donors Matadin and

Patram were having love and affection with Kalawati daughter of Sawant Singh resident of Rewari. Due to that reason they have gifted the suit property in her favour. It is further categorically mentioned that Kalawati has been made the owner in possession of the suit property. In the last page of the gift deed, the petitioner-plaintiff has signed 'Min Janib' donee i.e. on behalf of the donee. So, he was present at the time of the execution and registration of the gift deed merely on behalf of the donee mentioned in the gift deed. The recitals of the gift deed do not convey that Matadin and Patram had intention to execute the said gift deed in favour of the petitioner-plaintiff. Rather the donors had categorically mentioned that they had gifted away the suit property to Kalawati due to love and affection, which make their intention evident for making the gift deed in favour of Kalawati the predecessor-in-interest of the defendants.

9. The petitioner-plaintiff has not placed on file any prima facie evidence to show his possession over the suit property. So, I have no reason to differ with the findings recorded by the learned Additional District Judge that the plaintiff-petitioner has not been able to prove the prima facie case and balance of convenience in his favour and that he will suffer irreparable loss.

10. Thus, the petitioner-plaintiff is not entitled for any temporary injunction and his application for ad interim injunction has been rightly dismissed by the learned Additional District Judge.

11. Consequently, the present revision petition is without any merits and the same is hereby dismissed.

12. However, nothing expressed in this order shall be construed as the opinion of this Court on the merits of the case.

18.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**