

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

Civil Revision No.5408 of 2014 (O&M)

Date of decision: 18.3.2016

Raj Kumar

... Petitioner

Versus

Amarjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE K.KANNAN

Present: Mr.Pankaj Bali, Advocate,
for the petitioner.

Mr.Sushil Saini, Advocate,
for respondent No.1.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

K.KANNAN, J. (Oral)

In a suit for recovery of money, there is prayer for the relief of injunction against alienation of property. Admittedly, there is no security offered to the plaintiff for the purpose of loan alleged to have been contracted by the defendant from the plaintiff. There was a prayer for attachment of property under Order XXXVIII Rule 5 CPC which has been declined by the Court below. An application for injunction against sale has also been declined.

The plaintiff now wants an inspection of the property and for a draftsman to give physical features of the property. The Court below has

ordered the same.

The order is erroneous and it is set aside for the reason that the plaintiff can have no reach over the property of the defendant when there was no right created in favour of the plaintiff. Right of alienation is a necessary incident of ownership and it cannot be fettered by any simple money creditor. So long as there is no decree, there is no way that the plaintiff can secure any direction in relation to the property owned by the defendant and more so, when the prayer for attachment before the judgment has also been declined.

The order impugned is set aside and the civil revision is allowed. I also direct the court below to frame for consideration regarding the maintainability of claim for injunction in relation to the property owned by the defendant through the present suit.

(K.KANNAN)
JUDGE

March 18, 2016

Paritosh Kumar