

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CM No.18520-CII of 2015 &  
Civil Revision No.552 of 2014  
Date of Decision: April 27<sup>th</sup>, 2016

Jasbir Singh

...Petitioner

Versus

Nirmal Singh & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

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?

Present: None for the petitioner.

Mr.S.S.Salar, Advocate,  
for respondent No.2.

Mr.Ajay Pal Singh, Advocate with  
Mr.Anil K. Sharma, Advocate,  
for respondent No.9.

\*\*\*\*\*

**AMIT RAWAL, J. (Oral)**

CM No.18520-CII of 2015

Prayer in the application is for restoration of the petition,  
which was dismissed in default vide order dated 30.7.2015.

For the reasons mentioned in the application, which is  
supported by an affidavit, the order dated 30.7.2015 is recalled and the  
revision petition is restored to its original number.

CM stands disposed of.

CR No.552 of 2014

Petitioner-plaintiff is aggrieved of the impugned order dated

23.12.2013, whereby the Lower Appellate Court allowed the Misc.Appeal filed at the instance of defendant Nos.1 and 3 against the order dated 3.12.2011 of the Civil Judge (Junior Division), whereby the application under Order 39 Rule 1 & 2 CPC, was allowed.

The case set up by the petitioner-plaintiff in the suit was that the alienation made by Amarjeet Singh in the year 2004 could not have been done as the property at the hands of Amarjeet Singh was ancestral. The suit was filed by Jasbir Singh son of Darshan Singh son of Malkiat Singh son of Atma Singh. The trial Court granted the status-quo, but the Lower Appellate Court, after going through the averments made in the plaint, formed an opinion that from the pleadings in the suit, even no prima-facie case of interim injunction was made out and declined the injunction, much less also formed an opinion that the property was not ancestral in nature. It is further averred in the suit that the petitioner-plaintiff is 4<sup>th</sup> generation in lineage and has a right by birth in the property and, therefore, further alienation of the property by the subsequent vendees may create multifarious litigation.

Mr.S.S.Salar, learned counsel appearing on behalf of respondent No.2 submits that there is no illegality and perversity in the order under challenge. The same has been passed on the basis of prima-facie evidence, i.e., documentary evidence placed on record and the Court found that the ingredients of Order 39 Rule 1 & 2 CPC were not made out. No evidence, much less Intkab or Excerpt has been placed on record to form a prima-facie opinion by the trial Court, whose jurisdiction has been invoked by granting ad-interim injunction. The Lower Appellate Court rightly allowed the Misc.Appeal filed for setting-aside the order of the trial Court and, thus, urges this Court for affirming the findings of the Lower Appellate

Court.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no force, much less substance in the petition for the reason that except jamabandi, which shows the ownership of the property in the name of only Darshan Singh, no other evidence has been placed on record in order to enable the Court to form a prima-facie opinion whether the property at the hands of Amarjeet Singh was ancestral in nature. However, Amarjeet Singh succeeded to the estate of Atma Singh, who was 4<sup>th</sup> generation in lineage and, therefore, rightly so the injunction has been declined.

In view of the aforementioned facts and circumstances, the opinion expressed by the Lower Appellate Court in allowing the Misc.Appeal is perfect, legal and justified and no ground is made out for interference.

The revision petition stands dismissed.

Nothing expressed in this order shall be construed as an expression of opinion on merits of the pending suit.

**April 27<sup>th</sup>, 2016**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**