

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

Civil Revision No.7715 of 2016 (O&M)

Date of Decision: 17.11.2016

SURJIT KAUR

.....Petitioner

Vs

SHAMMI DASS

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sanjeev Sharma, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed order dated 23.04.2014 passed by the trial Court in an application under Order 39 Rules 1 and 2 CPC restraining the defendant-petitioner from creating encumbrance over the suit property during pendency of the suit and also from getting encashed the amount lying deposited in the Bank account of the deceased Hardev Singh. Banks were also restrained from disbursing any amount to the petitioner from the account of the deceased either individually or jointly during pendency of the suit. The order passed by the trial Court was affirmed by the lower Appellate Court vide order dated 19.09.2016.

[2]. Learned counsel for the petitioner vehemently

submitted that the deceased Hardev Singh had executed a registered Will dated 18.04.2011 in favour of the petitioner as the plaintiff and proforma defendant Nos.4 and 5 were not looking after the deceased. In a suit for declaration filed by the plaintiff, she had claimed joint ownership to the extent of 1/3rd along with proforma defendant Nos.4 and 5 on the basis of natural succession of deceased Hardev Singh. Will dated 18.04.2011 was also claimed to be illegal, forged, fabricated and was claimed to be not binding upon the rights of the plaintiff and the proforma defendants. Restraint was also sought against defendant No.1/petitioner from creating encumbrance over the suit property. Defendants were also sought to be restrained from releasing the amount lying deposited in the bank account of the deceased Hardev Singh.

[3]. I have heard learned counsel for the petitioner.

[4]. Since the suit is at initial stage and the validity of the Will in question has to be established by leading evidence during trial, therefore, Courts below have granted *ad interim* injunction in favour of the plaintiff. At this stage, no such final opinion with regard to the validity or otherwise of the Will can be formed by the Courts below. Nature of the suit property has to be preserved during the trial.

[5]. In view of above, I see no error of jurisdiction in the orders passed by the Courts below in granting ad interim injunction in favour of the plaintiff. Nothing observed by the Courts below at this preliminary stage shall be construed to be an opinion on ultimate merits of the case. This revision petition is accordingly dismissed.

[6]. Trial Court shall make sincere endeavor to dispose of the suit as early as possible.

November 17, 2016

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No