

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

287

CR-3882-2016

Date of Decision:11.08.2017

Rajbir Singh

.....Petitioner

Versus

Amit and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

**Present: Mr.Jitender Nara, Advocate,
for the petitioner.**

**Mr.Rajesh Hooda, Advocate,
for the respondents.**

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the orders passed by the learned courts below, whereby his application under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure was dismissed during the pendency of the suit, plaintiff has approached this Court by way of instant revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned orders.

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record that the petitioner has filed the suit for declaration and permanent injunction, challenging the relinquishment deed, allegedly obtained by defendant and his sons by playing fraud on him. So

far as the plea of fraud is concerned, it will be decided by the learned trial court after appreciation of evidence produced by both the parties. However, so far as the alienation of the suit property is concerned, plaintiff has made out a *prima facie* case. Balance of convenience would also be in his favour. In case *ad interim* injunction is not granted in favour of the petitioner-plaintiff, the defendants would sell away the suit property and the very purpose of filing the suit would be defeated.

Thus, since the petitioner has fulfilled all the basic ingredients for granting *ad interim* injunction during the pendency of the civil suit, impugned orders passed by the learned courts below cannot be sustained. It is so said because the learned courts below failed to appreciate true facts of the case as noticed here-in-above. Having said that, this Court feels no hesitation to conclude that since the impugned orders passed by the learned courts below are suffering from patent illegality, the same cannot be sustained.

So far as the merits of the case are concerned, this Court would not like to comment on merits, lest it may prejudice the rights of either of the parties. Suit is still pending. Parties are yet to lead their evidence. The suit shall be decided by the learned trial court in accordance with the evidence brought on record by the parties thereto. However, to strike a balance between the parties and also to ensure that the suit filed by the plaintiff-petitioner is not rendered infructuous, it is directed that both the parties to the suit shall maintain status quo regarding possession as well as nature of the suit property. However, respondents-defendants are restrained from carrying out any demolition or alienation of the suit property.

No other argument was raised.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

August 11, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No