

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

CR No.7623 of 2014
Date of decision : 11.08.2017

Har Bhagwan Singh

...Petitioner

Versus

Sham Sunder and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harkesh Manuja, Advocate for the petitioner.

Mr. Pritam Saini, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff is in revision petition against the order dated 29.10.2014 passed by the learned Additional District Judge, Panipat.

The plaintiff had filed a suit for declaration challenging the gift deed dated 26.05.2008 executed by Pahalwan Dass-his father in favour of wife and sons of Sham Sunder son of Pahalwan Dass. During the pendency of the suit, the plaintiff filed an application under Order 39 Rules 1 and 2 CPC praying that the defendants may be restrained from changing the nature of the property. The learned trial Court chose to grant the injunction. However, in appeal, learned Additional District Judge while accepting the appeal and setting aside the order made observations that any alienation or

construction raised by the party shall not prejudice the rights of the plaintiff and such alienation and construction shall be subject to the final decision on the merits of the case.

Learned counsel for the petitioner-plaintiff has challenged the aforesaid order and maintained that the First Appellate Court committed material illegality in interfering with the discretion exercised by the trial Court.

On the other hand, learned counsel for the respondents has submitted that it is defendants who would suffer irreparable loss, if the defendants are not allowed to enjoy and use their property which has come to them under a registered gift deed.

I have heard learned counsel for the parties.

I do not find any reason to interfere with the order passed by the learned Additional District Judge, Panipat.

The learned District Judge has rightly noticed that there is a registered gift deed executed by Pahalwan Dass, predecessor of the parties gifting the suit property which is hardly 60 square yards plot in favour of wife and sons of defendant No.1.

Therefore, the plaintiff does not have prima facie case, balance of convenience in their favour and plaintiff would not have suffered irreparable loss. Rather irreparable loss would be against the defendants if the injunction is granted.

Since, the suit has been pending for quite sometime, the learned trial Court is requested to conclude the trial within a period of six months.

Revision petition is dismissed.

Any observations made herein while deciding this revision petition would not come in the way of the trial Court while deciding the case finally.

11.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No