

115.

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

CIVIL REVISION-2631-2018

Date of decision:25.04.2018.

SATYA DEV

... Petitioner

Versus

GRAM PANCHAYAT KANWRA THROUGH ITS SARPANCH SHRI
KESHAV

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Manoj Kaushik, Advocate,
for the petitioner.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition under Article 227 of the Constitution of India impugning the order dated 10.04.2018 (Annexure P-1) passed by learned Additional District Judge, Faridabad whereby his appeal against the order dated 31.03.2018 (Annexure P-2) passed by learned Civil Judge (Junior Division), Faridabad on an application filed under Order 39 Rule 1& 2 CPC, was dismissed.

Briefly stated, the petitioner has filed a civil suit for permanent injunction with alternative relief for mandatory injunction against the respondent-defendant. It has been prayed that the defendant be restrained from raising any kind of construction over the suit property until the suit land is partitioned by metes and bounds, as detailed in the plaint. Along with the suit, petitioner-plaintiff has also filed an application under Order 39 Rule 1 & 2 CPC read with Section 151 CPC for ex parte interim injunction.

application with an observation that the execution of the gift deed in favour of Gram Panchayat is an admitted fact which is reflected from the copy of gift deed. Even the mutation was sanctioned for this suit land in favour of Gram Panchayat, Nacholi and thus, the property was transferred to the donee-Gram Panchayat. At the same time, it was also observed by the Civil Court that the plea of the plaintiff that the gift deed is a sham document and was never acted upon, is yet to be decided by the Civil Court. The argument of learned counsel for the petitioner that till the pendency of the suit, Gram Panchayat be restrained from raising any construction over the suit land, cannot be accepted. In order to grant interim injunction, the Hon'ble Apex Court in the case of **Sant Ram Nagina Ram Versus Daya Ram Nagina Ram-AIR 1961 Punjab 528** has laid down the principles and propositions. Though it has been argued that the judgment of the court below is based on the presumption as if the Gram Panchayat is a co-sharer whereas the Gram Panchayat was never a co-sharer, but on perusal of the plaint, this Court finds that the plaintiff has pleaded himself as a co-owner.

Be that as it may, without observing anything on the aforesaid contentions, this Court does not find any reason to interfere in the judgment of the courts below.

Dismissed.

(HARI PAL VERMA)
JUDGE

25.04.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No