

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

CR No.363 of 2017

Date of decision:22.02.2018

Jakariya and another

... Petitioners

Vs.

Maimuna and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amit Jain, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner-plaintiffs are aggrieved of the impugned judgment dated 19.08.2016 (Annexure P-6), passed by the Lower Appellate Court, whereby, civil miscellaneous appeal against the order dated 02.09.2015, allowing the application filed under Order 39 Rules 1 and 2 read with Section 151 of Code of Civil Procedure, was allowed.

Mr. Amit Jain, learned counsel appearing on behalf of the petitioners submitted that the main reasons assigned by the Lower Appellate Court while reversing the findings of the trial Court is that no evidence has been placed on record with regard to handwriting expert that defendant no.5 has forged the GPA of plaintiff and had acted upon by passing a title of the plaintiff to defendant no.4 by way of SPA. The statement of handwriting expert is dated 08.02.2018 but he has yet to appear as a witness. Once report

has come that the defendants are creating third party rights which would create multifariousness of litigation. The trial Court had already granted the injunction by taking into consideration the parameters as enshrined under Order 39 Rules 1 and 2 CPC, therefore, the impugned order suffers from illegality and perversity.

I have heard the learned counsel for the petitioners and appraised the paper book.

Before dealing with the arguments of Mr. Amit Jain, this Court called upon him as to why many adjournments have been sought in the present petition which was filed on 28.11.2016 and the same was listed for the first time on 30.03.2017, then on 17.07.2017 and 3.10.2017 and thereafter on 12.01.2018 and now today. The answer was that the petitioner-plaintiffs were in process of examining the handwriting expert in order to challenge the findings of the Lower Appellate Court and the suit aforementioned was filed in the year 2012. It has been brought to the notice of this Court that till all this period, nothing has happened, particularly after the decision rendered by the Lower Appellate Court on 19.08.2016. Even otherwise also, creation of third party rights would be subject to lis pendence.

In my view, the plaintiffs should have focused on the conclusion of evidence in the pending suit as early as possible in order to succeed in the suit as per the evidence brought on record.

No ground is made out for interference in the impugned order.

Resultantly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

February 22, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No