

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

Sr. No.115

C.R. No.4409 of 2018
Date of decision: 05.12.2018

Anil and others

....Petitioners

versus

Dharambir Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sandeep K. Sharma, Advocate
for the petitioners.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 28.05.2015 passed by the Civil Judge (Junior Division) Jhajjar (for short – the Trial Court) through which on an application filed by respondents No.1 and 2 under Order 39 Rules 1 and 2 CPC, the petitioners/defendants have been restrained from alienating the suit property. Also under challenge is the order dated 25.10.2017 passed by the Additional District Judge, Jhajjar (for short – the Appellate Court) through which the appeal preferred by the petitioners against the aforesaid order of the Trial Court has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondents No.1 and 2 filed a suit seeking therein to be declared owners of their respective shares. Further a decree for declaration to the effect that general power of attorney of petitioner No.2-Santosh dated 19.09.2014 and the sale deed dated

12.09.2014 executed by petitioner No.4-Rajesh Kumar in favour of respondent No.4-Prem Parkash and petitioner No.5-Anup Singh vide vasika No.5289 dated 16.10.2014 be also declared to be nonest. Permanent injunction to restrain respondent No.4-Prem Parkash and petitioner No.5-Anup Singh from further alienating or changing the nature of the suit property was also sought for. Alternatively respondents No.1 and 2/plaintiffs sought possession of the suit property. Alongwith their suit respondents No.1 and 2 filed an application under Order 39 Rules 1 and 2 CPC seeking therein to restrain respondent No.4 and petitioner No.5 from alienating the suit property. On being put to notice, the petitioners and respondents No.3 and 4, who were the defendants in the suit, appeared before the Trial Court and filed their written statement as also their replies to the application filed by respondents No.1 and 2/plaintiffs seeking interim relief. The Trial Court through order dated 28.05.2015 allowed the application filed by respondents No.1 and 2/plaintiffs seeking interim relief and restrained respondent No.4 and petitioner No.5 from further alienating the suit property. The petitioners alongwith respondent No.4 challenged the order of the Trial Court through an appeal which was dismissed by the Appellate Court through its order dated 25.10.2017. It is in these circumstances that the present petition has been preferred.

Learned counsel for the petitioners has been heard.

The impugned sale deed dated 12.09.2014 executed by the petitioner No. 4-Rajesh Kumar in favour of respondent No. 4-Prem Parkash and petitioner No. 5-Anup Singh has been challenged on the ground of fraud. Both the Trial Court also the Appellate Court have concurrently expressed doubts with regard to execution of the impugned sale deed after

recording findings that through sale deed No.4696 land was sold at ₹23,000/- per square yard whereas through the impugned sale deed No.4695 similar land was sold at nearly 1/8th the price without any meaningful reason forthcoming for the same.

In view of the above, no interference in the concurrent findings recorded by both the Trial Court and the Appellate Court is warranted especially when the only direction given by both the Courts is to restrain petitioner No.5 and respondent No.4 from alienating the suit property during the pendency of the suit where specific allegations of fraud have been made.

It may be clarified that the above findings have been recorded only to decide the interim prayer made by respondents No.1 and 2/plaintiffs and therefore, at the time of final decision of the suit, which shall be after recording of evidence to be produced by both the parties, the Trial Court shall not be influenced by the same.

Dismissed.

(DEEPAK SIBAL)
JUDGE

December 05, 2018
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No