

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

(248)

CR No.715 of 2016

Date of Decision: 23.04.2018

Kulwinder Singh and others

.....Petitioners

Vs.

Harmit Singh and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. A.S. Narang, Advocate for the petitioner.

Mr. H.S. Oberoi, Advocate for respondent No.1.

KULDIP SINGH, J.(Oral)

Impugned in the present petition is the order dated 29.10.2015 passed by the learned Additional District Judge, Patiala affirming the order dated 03.01.2015 passed by learned Civil Judge (Junior Division), Patiala vide which an application for grant of ad-interim injunction was dismissed by the learned trial Court.

In brief, the controversy is that the plaintiffs have filed a suit in the year 2013 wherein they sought the declaration that the sale deed dated 07.12.2005 executed by their father Jagtar Singh in favour of defendant No.1 relating to house on agricultural land is illegal and liable to be cancelled on the ground that the suit property was ancestral property.

The trial Court took the view that prima-facie no case is made out and balance of convenience is in favour of the defendant. This view was affirmed by the Lower Appellate Court.

After hearing learned counsel for the parties, I am of the view that in this case, the sale is of the year 2005 and was challenged in the year

2008 on the ground that it was ancestral property. Before the trial Court, the plaintiffs are yet to establish that the suit property is an ancestral joint Hindu Family and Co-parcenary property. They have also to satisfy the Court regarding the limitation part. The sale is apparently for consideration and defendant No.1 cannot be restrained from reaping the fruits of sale in his favour when the case of the plaintiffs is not proved by leading the evidence.

There is no ground to interfere in the discretion exercised in refusing the injunction.

April 23, 2018
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(KULDIP SINGH)
JUDGE

Whether Speaking/reasoned	Yes
Whether Reportable	No