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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-8168-2018 (O&M)

Date of decision : 01.12.2018

Ram Sharan Pal

... Petitioner

Versus

Amrik Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vaibhav Goel, Advocate for
Mr. Dheeraj Mahajan, Advocate
for the petitioner.

AMIT RAWAL, J.

The present revision petition is directed against the impugned order, whereby the transfer application submitted by the petitioner-defendant No.2 in a Civil Suit titled as **“Amrik Singh V/s A.I.T. Amritsar and others”**, has been dismissed.

It has been contended that while deciding the application under Order 39 Rules 1 and 2 of the Code of Civil Procedure, vide order dated 10.09.2018, the trial Court restrained the petitioner-defendant No.2 from alienating the suit property to anybody other than the plaintiff till the final disposal of the suit. However, the observation that the order is construed only for the adjudication of the interim application, was not mentioned. It was a reflection of the partiality in favour of the plaintiff, though the aforementioned order has been challenged before the lower Appellate Court. In support of his contentions, he relies upon the *ratio decidendi* culled out

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by Hon'ble the Supreme Court in **"Pushpa Devi Saraf V/s Jai Narain Parasrampur" 1992 AIR (SC) 1133.**

I have heard learned counsel for the petitioner-defendant No.2, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Goel, for, the operative part of the order dated 10.09.2018 relied upon by the petitioner during the course of the hearing, reads thus:-

"Thus in view of the above discussion a prima facie case is made out in favour of the applicant, balance of convenience also lies in favour of the applicant. Accordingly, the application in hand stands allowed. The defendant No.2 is restrained from alienating the suit property to anybody other than the plaintiff/applicant till the final decision of the suit."

Even if, there is no reference to the observation that the finding shall not be construed an expression of opinion on merits of the suit, it is still to be construed, in the aforementioned manner. Nothing impartiality is reflected from the tenor and mode of the observation. Concededly, the petitioner-defendant No.2 has already availed the remedy of appeal.

No ground for transfer of the suit, aforementioned, is made out. Accordingly, the present revision petition is dismissed.

01.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**