

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.8755 of 2017 (O&M)

Date of decision:15.01.2018

Manjit Kaur and another

... Petitioners

Vs.

Parminder Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Nandan Jindal, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner-plaintiffs are aggrieved of the impugned order dated 20.11.2015, vide which the application filed under Order 39 Rules 1 and 2 CPC seeking restraint order against the respondent-defendants for selling the property in dispute, has been dismissed and order dated 21.08.2017, whereby, the appeal filed against the aforesaid order, has also been dismissed.

Mr. Nandan Jindal, learned counsel for the petitioner-plaintiffs submitted that suit alongwith an application under Order 39 Rules 1 and 2 was filed. The genesis/foundation of the suit had been that Parminder Kaur, who in deceitful manner married with petitioner No.2-Amandeep Singh Sodha without disclosing the fact that she was already married. Though no steps have been taken for declaring the marriage null and void but believing her representation to be correct in good faith transferred the property

reflected in the suit prior to the marriage. However, she had already visited India thrice and there is every likelihood that she may part with the title and ownership of the property resulting into multifariousness of litigation. Though the application under Order 39 Rules 1 and 2 CPC has been filed, yet the Court below has not been conscious of the aforementioned fact and therefore, the orders under challenge are without jurisdiction.

I have heard learned counsel for the petitioner-plaintiffs, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Jindal, for, the relief of injunction as expressed in the application seeking interim injunction, the apprehension of the petitioners is ill founded despite respondent No.1 having visited India thrice yet had not made any effort to transfer the property. Even otherwise, the interest of the petitioner-plaintiffs is protected, in view of the provisions of Section 52 of the Transfer of Property Act as any transfer of the land or property through any means would be hit by *doctrine akin to lis pendens*.

In view of the aforementioned observations, I do not find any illegality and perversity in the orders under challenge particularly when the suit is at the stage of petitioner-plaintiffs' evidence.

While upholding the orders under challenge, revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

January 15, 2018

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No