

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

**RSA-1845 of 2017(O&M)
Date of decision : 14.5.2018**

Parvesh and another

.....Appellants

VERSUS

Vijay Singh alias Vijender and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.AAyush Gupta, Advocate for the appellants
Mr.J.S.Dahiya, Advocate for the respondents.

AMIT RAWAL, J.

The appellants-plaintiffs are aggrieved by the judgment and decree dated 4.11.2016 rendered by the learned Appellate Court whereby the judgment and decree of the trial Court dated 4.5.2016 decreeing their suit restraining defendant No.1-Vijay Singh @ Vijnender from alienating the suit property by way of sale, lease gift, mortgage or exchange in any manner, has been reversed.

Mr.Aayush Gupta, learned counsel appearing for the appellants submitted that the defendant No.1 was convicted in a criminal case for murdering the maternal uncle of the appellants and is undergoing life imprisonment in jail and the appeal against the conviction is pending for

the last more than three years. The Appellate Court has reversed the findings of the trial Court without noticing that the appellants were minors and there was every apprehension in their mind that the defendants may not alienate or tinker with the property as averred in the plaint.

Mr.J.S.Dahiya, learned counsel appearing for the respondents submitted that a suit seeking injunction against the Karta restraining him from alienating the property was not maintainable, though the property of the defendants was not proved to be ancestral, in view of the law laid down in Sunil Kumar v. Ram Parkash AIR 1988 Supreme Court 570.

I have heard the learned counsel for the parties and appraised the records and am of the view that there is no force in the submissions of learned counsel for the appellants. It is settled law that where the property alleges to be coparcenary, though had not been proved, at the hands of the defendants, cannot seek injunction. Even otherwise, no injunction can be obtained against the defendants in the absence of nature and character of the property. Such act on behalf of the appellants who were minors shows that they were tutored to file the aforementioned suit.

As an upshot of my finding, I do not find any illegality and perversity in the judgment and decree passed

by the Appellate Court, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal stands dismissed.

May 14, 2018
KD

(AMIT RAWAL)
JUDGE

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes / No