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

**Civil Revision No.5887 of 2018
Date of Decision: 04.04.2019**

**Mohan Singh etc.Petitioners
Vs
Ranjit SinghRespondent**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajan Bansal, Advocate
for the petitioners.

Mr. Siddharth Gupta, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioners have preferred this revision petition against the order dated 09.08.2018 passed by the Addl. District Judge, Bathinda vide which the application filed by the petitioners under Order 41 Rule 5 read with Section 151 CPC was dismissed.

[2]. Perusal of the record would show that the suit for declaration and permanent injunction filed by the plaintiff was decreed by the trial Court vide judgment and decree dated 14.02.2018 and the plaintiff was declared as owner to the extent of 1/8th share out of 73 *Kanals 2 Marlas* of land on the basis of Will dated 20.08.2014 executed by Bachan Kaur @ Amarjit Kaur. Defendants/petitioners were restrained from alienating the aforesaid share of the plaintiff out of the total land.

[3]. An appeal was preferred by the defendants/petitioners before the lower Appellate Court along with application under Order 41 Rule 5 CPC. The said application has been dismissed by the lower Appellate Court vide the impugned order and that is how the present revision petition came to be filed.

[4]. Perusal of the impugned order would show that the lower Appellate Court dismissed the application primarily on the ground that the petitioners have not elaborated as to what steps have been taken by the plaintiff to take possession of the land forcibly. Mere apprehension was not construed to be a ground for restraining the decree holder by means of any interim stay.

[5]. The case property has to be preserved in first appeal which is continuation of the suit. Taking into consideration, the facts and circumstances of the case, I deem it appropriate to direct the parties to maintain *status quo* regarding alienation of the suit property during pendency of the first appeal before the lower Appellate Court.

[6]. With the aforesaid direction, this revision petition is disposed of.

April 04, 2019

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No