

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

CR-2164-2020(O&M)

Date of decision: 02.12.2020

Ishwar Chand and others

.....Petitioners

Versus

Krishna Devi and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Parvinder Singh, Advocate for the petitioners

Mr. Shubhashish Kukreti, Advocate for respondents

ANIL KSHETARPAL, J. (ORAL)

This revision petition under Article 227 of the Constitution of India has been filed to direct the learned First Appellate Court to hear and decide the application for grant of stay/interim order in civil appeal no. CA/644/2019 titled as “Ishwar Chand and others vs. Krishna Devi and others’.

On 25.8.2020, the following order was passed by this Court:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

Learned counsel for the petitioners submits that the petitioners are actually in possession of the suit property since their father died in the year 1971, with even respondent no. 1 having testified before the learned civil court that the will executed by the father of the parties had been duly acted upon and a mutation of inheritance entered in favour of the petitioners.

He further submits that unfortunately the will could not be proved before the trial court, leading to a decree being issued against the petitioners; but the learned appellate court has still not decided the application of the petitioners in their appeal, seeking a stay on the operation of the decree

issued by the civil court, though respondent no. 1 has even filed a reply to that application.

He next submits that the application has not been decided due to the COVID pandemic having set in in the meanwhile, but respondent no. 1 is taking advantage of that fact and is trying to sell the suit property, she even having got a mutation sanctioned in her favour, in the revenue record.

Without making any comment on the actual merits of the case at this stage, but keeping in view the entire circumstances, let notice of motion be issued to respondent no. 1 only (on the request of learned counsel for the petitioners), returnable on 02.12.2020.

In the meanwhile, the respondents are restrained from selling the suit property till the next date of hearing, with the revenue authorities also directed to make a 'red entry' in the record, stating therein the factum of this order staying any sale of the suit property.”

Sh. Shubhashish Kukreti, Advocate has appeared for the contesting respondent-plaintiff and submits that he has no objection if the Appellate Court is directed to hear and decide the application for grant of stay/interim order.

Keeping in view the aforesaid no objection, the present petition is disposed of by directing the first Appellate Court to take up and decide the application for stay within 15 days. However, it is clarified that this Court has not made any observations with regard to the merits of the case. The interim order as ordered by this court would continue to operate till learned First Appellate Court decides the application for grant of stay.

02.12.2020
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No