

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

**112**

**CR No.8324 of 2019 (O&M)**  
Date of decision : 11.02.2020.

Inderjit Singh and another

... Petitioners

Versus

Kulwant Kaur and another

.. Respondents

**CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL**

Present:- Mr. Munish Gupta, Advocate for the petitioners.

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**Anupinder Singh Grewal, J. (Oral)**

The petitioners have challenged the order dated 20.11.2019 passed by the trial Court whereby the application preferred by them under Order 38 Rule 5 of the CPC for attachment of the property of the respondents/defendants during the pendency of the suit has been declined. The petitioners had filed a suit for declaration to the effect that the legal notice dated 17.08.2017 terminating the agreement to sell entered between the parties on 22.01.2016 is null and void.

Learned counsel for the petitioners contends that the suit is not only for declaration but for recovery of the earnest money and therefore, the attachment of the property of the respondents/defendants should have been ordered.

Heard.

The petitioners and respondent No.1/defendants No.1, being legal guardian of respondent No.2/defendant No.2, had entered into an agreement to sell 4 kanals 16 marlas of agricultural land on 22.01.2016. The target date was

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initially fixed as 31.01.2017 and later on, it was extended to 10.06.2017. The possession of the property had not been delivered and continues to remain with the respondents/defendants who are the original owners of the suit land. The petitioners had filed a suit for declaration that the legal notice served by the defendants is null and void. Although the relief of recovery of the amount has also been sought but as to whether the petitioners succeed in the matter, the same will be decided at the conclusion of the trial after the parties lead evidence in their favour. There is nothing on record to suggest that the respondents/defendants are alienating the suit property and therefore, I do not find any manifest illegality in the order of the trial Court declining the attachment of the suit property at this stage.

Consequently, the petition stands dismissed.

However, the dismissal of this petition would not preclude the petitioners from preferring similar application in the event they have any material which indicates that the respondents are trying to alienate the suit property.

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**February 11, 2020**  
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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |