

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 112

Civil Revision No.4214 of 2022 (O & M)

Date of Decision: December 19, 2022

Monu Gupta

..... PETITIONER(S)

VERSUS

Nikhil Aggarwal and others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Bharat Bhushan Choudhary, Advocate, for the petitioner.

. . .

Tribhuvan Dahiya, J (Oral)

This revision petition has been filed under Article 227 of the Constitution of India for setting aside the judgment dated 11.07.2022 (Annexure P-5) passed by the lower appellate Court whereby the order passed by the trial Court, dated 25.04.2022, under Order XXXIX Rule 1 and 2 CPC restraining the respondents from alienating the suit property or creating any charge over the same, was set aside.

2. The suit in question was filed by the petitioner-plaintiff alleging that respondents/defendants Nos.1 and 2 are trying to frustrate the plaintiff's right over the suit property. A General Power of Attorney (GPA) was executed by the plaintiff in favour of defendant No.1 which was later cancelled by her by way of registered deed of cancellation dated 20.02.2018. The plaintiff's brother, defendant no.1, sold some of the properties and also executed a relinquishment deed on 07.03.2017 in favour of his son i.e., defendant No. 2, without any legal right to do so.

3. A perusal of the order passed by the lower appellate Court, dated 11.07.2022, shows that the GPA in question was validly executed, and relinquishment deed in favour of defendant No.2 was executed on that basis on 10.03.2017. It is also recorded that as per recitals in the GPA, respondent No.1 was authorized to alienate the suit property by executing the sale deed/ relinquishment deed in favour of any person.

4. Once the validly executed GPA authorizing respondent No.1 to alienate the property was in force when the registered relinquishment deed in question was executed on 10.03.2017, it cannot be said there was a *prima facie* case or balance of convenience in favour of the plaintiff for issuing the interim injunction. Learned counsel for the petitioner is not in a position to dispute these facts. He has only contended that the GPA in question was cancelled by the plaintiff. But the cancellation was in the year 2018, i.e., subsequent execution of the relinquishment deed in question.

5. In view thereof, there is no infirmity in the order passed by the lower appellate Court.

6. Dismissed.

7. Since the main case stands decided, pending applications, if any, are disposed of as having been rendered infructuous.

(Tribhuvan Dahiya)
Judge

December 19, 2022
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No