

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

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2023:PHHC:090143

CR-294-2023

Date of decision: 18.07.2023

PARMOD CHADHA

..Petitioner

Versus

KAMLESH CHADHA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sapan Dhir, Advocate
for the petitioner.

Mr. Prateek Gupta, Advocate
& Mr. Nitin Gupta, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. The parties to the litigation are the members of the same family.
2. Smt. Kamlesh Chadha along with her two sons filed a suit for grant of decree of declaration, permanent injunction and partition against her third son Sh. Parmod Chadha with respect to the property No.2563, Block H, Sector 49, Saini Colony, Extension I, Faridabad. Sh. Parmod Chadha filed a counter claim apart from contesting the suit. He claims that there is another property i.e. House No.1-C/60, NH, NIT, Faridabad. In the counter claim, the relief of partition of House No.1-C/60, NH, NIT, Faridabad, has been sought. The parties were permitted to lead their evidence. The case was fixed for the rebuttal evidence, if any, and final arguments in the suit.
3. At the stage of final arguments, Sh. Parmod Chadha, the defendant in the suit filed an application for permission to amend the written statement as well as counter claim in order to challenge the correctness of transfer deed executed by Smt. Kamlesh Chadha in favour of her two sons namely Sh. Manish Chadha and Sh. Ashish Chadha with respect to the suit property as

well as the property which is subject matter of counter claim. The petitioner claims that he is required to challenge the correctness of the aforesaid transfer deeds.

4. The trial Court has dismissed the application on the ground that the case is now at the final stage and, therefore, it would not be appropriate to permit the amendment of the pleadings which would result in a *de novo* trial.

5. The learned counsel representing the petitioner contends that the transfer of the property during the pendency of the suit may be governed by doctrine of *lis pendens*. However, the petitioner should be permitted to challenge its correctness to avoid the necessity of filing a separate suit.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. Admittedly, the petitioner-Sh. Parmod Chadha is not a party to the aforesaid transfer deeds. Moreover, those transfer deeds were executed during the pendency of the suit. The transferees namely Sh. Manish Chadha and Sh. Ashish Chadha are party to the litigation. The relief of partition of both the properties has already been sought.

8. In these circumstances, there is no necessity of challenging the transfer deeds.

9. Keeping in view the aforesaid facts, this Court is not inclined to interfere, particularly when the petitioner is not required to seek annulment of the transfer deeds.

10. Dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

July 18th, 2023

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No