

2023:PHHC:095790

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

CR-1019-2023 (O&M)
Date of decision: 27.07.2023

Vedant, minor through his mother

..Petitioner

Versus

Ran Singh and others

.Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Nipun Vashist, Advocate for the petitioner

Mr. Balraj Gujjar, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. The petitioner is a grandson of defendant no.1 and nephew of defendant no.2. He filed a suit for the grant of decree of declaration on the basis of a settlement arrived at with the intervention of the Gram Panchayat on 27.08.2018, wherein it was agreed that defendant no.1 will transfer 6 acres of land on 24.09.2018, in favour of the petitioner and also provide two rooms of the residential house situated on the northern side for the accommodation of the petitioner and his mother. This agreement was signed by the villagers of 8 villages including the paternal and the maternal uncle of the petitioner, ex-Sarpanch etc. etc. An application filed by the petitioner for the grant of the temporary injunction restraining the respondents from alienating the property has been dismissed by both the courts below. It has been held that the settlement dated 27.08.2018, is required to be proved by the petitioner and in the absence of any evidence showing that the suit property is

ancestral, the petitioner has no right. Moreover, the transfer of the property, if any, shall be governed by the doctrine of lis pendens as provided under Section 52 of the Transfer of Property, 1882. Moreover, the courts have also held that such decision of the Panchayat is not registered.

2. Heard the learned counsel representing the parties and perused the paperbook. As regards the first reason, the plaintiff will prove the document as and when he is granted the opportunity to lead evidence in support of it. At this stage, the Court is required to examine the case prima facie. Secondly, the defendants while filing the written statement have not disputed their signatures. The grandfather, Ran Singh (defendant no.1) has stated that such a decision is not binding as the property was not ancestral. Once prima facie a document has been executed, which has been signed by respectables of eight villages, the petitioner has a prima facie case.

3. The next reason assigned by the court for the applicability of doctrine of lis pendens, would also not be sufficient to deny the relief of injunction, particularly, when it is not in dispute that the petitioner is a grand child of defendant no.1-Ran Singh. As regards the objection of the requirement of registration, it may be noticed that this fact can be examined, while finally deciding the case.

4. Keeping in view the aforesaid facts and discussion, the impugned order passed by both the courts below is set aside. The plaintiff (petitioner) is held entitled to the injunction, as prayed for. The

defendants are restrained from alienating the property, which was promised to be transferred in favour of the petitioner, as per the decision of the Panchayat dated 27.08.2018.

- 5. The revision petition stands allowed.
- 6. Keeping in view the facts of the case, the learned trial court is requested to make sincere endeavour for expeditious disposal of the suit.
- 7. All the pending miscellaneous applications, if any, are also disposed of.

27.07.2023
rekha
Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(ANIL KSHETARPAL)
JUDGE