

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

RSA-345-2020 (O&M)

Date of Decision: August 09, 2023

Parkash and others

..... Appellants

Versus

Mange Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.Roopak Bansal, Advocate for the appellants.

HARKESH MANUJA, J.

1. By way of present appeal, challenge has been laid to the judgments and decrees dated 07.03.2015 and 19.12.2018 passed by the courts below; whereby a suit for permanent injunction for restraining respondents No.1 & 2 from alienating the suit property as well as interfering in the possession of appellants-plaintiffs, has been dismissed.

2. Very briefly, the appellants-plaintiffs, claiming themselves to be owner in possession of half share of suit land measuring 219 kanals 1 marla, situated in Village Chulkana, Tehsil Samalkha District Panipat filed a suit for permanent injunction with a prayer for restraining respondents-defendants 1 & 2 from alienating the suit land in favour of respondent-defendant no. 3 and from interfering in their possession. It was pleaded in the plaint that the respondents-defendants No. 1 & 2 were claiming themselves to be owner to the extent of half share in the suit property being successors of one

Chandgi who was allegedly adopted by Sunda. It was also pleaded that the suit land was still joint and partition proceedings were going on and thus they could not make alienation or interfere in the possession of appellants.

3. In response, two sets of written statements were filed on behalf of respondent nos. 2 and 3, respectively. Respondent No.2, in his written statement stated that he along with respondent No.1 was owner to the extent of half share of the suit property; whereas plaintiffs no. 1 to 4 and plaintiffs nos. 5 to 8 along with respondent No.4 owned 1/4 each. It was further stated that being co-sharer respondent No.2 had every right to alienate his share. It was also pleaded that during pendency of the suit, a portion of his share was also sold to respondent-defendant No.3 vide registered sale deed against consideration. On the other hand, respondent-defendant No.3 pleaded himself to be *bona fide* purchaser.

4. Learned Trial Court vide its judgment and decree dated 07.04.2015 decreed the suit partly to the extent of restraining respondents 1 & 2 from alienating 1/8th share of the suit property, which was inherited by them from Hira, besides it, the prayer for grant of injunction qua their half share was declined. Aggrieved thereof, the appellants filed first appeal, the same was dismissed vide judgment and decree dated 19.12.2018.

5. Impugning the aforementioned judgments and decrees passed by the Courts below, present appeal has been filed.

6. I have heard learned counsel for the appellants and gone through the paper-book. I am unable to find substance in the submissions made by learned counsel for the appellants.

From the pleadings and evidence available on record, it has been established that Chandgi was adopted by Sunda and inherited his one half share. The adoption was proved and upheld in previous litigation between the parties which had attained finality. Post adoption, Chandgi became coparcener in the adopted family, having severed all his ties with the natural family. Consequently, respondents-defendants No. 1 & 2 became owners in possession of half share being the legal heirs of Chandgi and thus, could not be restrained from alienating their share.

7. Rightly decided by the Courts below of having been adopted by Sunda, Chandgi was not entitled to inherit share from his natural father and thus, respondent-defendants 1 & 2 were not entitled to claim any right to that extent. The case set up by the appellants-plaintiffs during arguments that they were owner in possession of 3/4 share of the suit property was even against their own pleadings in the plaint, wherein they claim themselves to be owners of 1/2 share. Moreover, no injunction can even be granted against the co-sharer and thus the suit was rightly declined.

8. In view of the discussion made hereinabove and the concurrent findings of facts recorded by the Courts below in a suit for permanent injunction, there being no illegality or infirmity in the

judgments passed by the Court below, the appeal is resultantly dismissed.

Pending application(s), if any, shall also stand disposed of.

August 09, 2023
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>