

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

157

CR-6087-2023 (O&M)
Date of decision: 19.10.2023

ATUL

....Petitioner

Versus

ANKUSH

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Ramesh Hooda, Advocate for the petitioner.

Mr. Parmod Sharma, Advocate for the respondent.

ANIL KSHETARPAL. J.(Oral)

1. The parties to this litigation are children of late Sh. Bal Kishan @ Ballu. It has come on record that late Sh. Bal Kishan @ Ballu transferred some movable property in favour of the petitioner (son) on 24.03.2015. Thereafter, he is alleged to have executed a registered Will in favour of his daughter (Ankush-respondent). The correctness of the transfer deed was challenged by the father, which was dismissed and the Court recorded a finding that the property was self acquired. Now, a suit has been filed by Atul (petitioner) to claim that he is owner of half share of the property left behind by his father. He also filed an application for grant of temporary injunction to restrain his sister from alienating the property. The trial Court has passed an order of injunction, which has been vacated by the First Appellate Court.

2. Heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

3. Learned counsel representing the petitioner contends that the

respondent is likely to transfer the property if the injunction order is not granted.

He submits that the registered Will dated 07.07.2020, is yet to be proved.

4. On the other hand, learned counsel representing the respondent asserts that any transfer of the property shall be governed by the rule of *lis pendens* which sufficiently protects the interest of the plaintiff. He submits that prima facie there is a registered Will in favour of the respondent.

5. This Court has considered the submissions of the learned counsel representing the parties. Before granting a temporary injunction, the Court is required to apply three mandatory tests. The Court is required to examine that whether the plaintiff has a prima facie case that is the balance of convenience also in favour of the plaintiff and the plaintiff shall suffer irreparable loss and injury if the injunction is not granted. If the aforesaid tests are applied to the facts of the present case, the plaintiff has failed to make out his case. Moreover, the rights of the plaintiff are sufficiently protected by Section 52 of the Transfer of Property Act, 1882

6. Keeping in view the aforesaid facts, this Court is not expected to interfere.

7. Dismissed.

(ANIL KSHETARPAL)
JUDGE

19.10.2023

Amandeep

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No