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

CR-5781-2023

Date of decision: 15.12.2023

Bharti and another

...Petitioners

Versus

Suraj Mal @ Suraj Tanwar and another

...Respondent

**CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. J.S. Hooda, Advocate for the petitioners.

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**KARAMJIT SINGH, J. (ORAL)**

1. The present revision petition has been filed by the petitioners/plaintiffs against the order dated 07.10.2022 (Annexure P-3) passed by the Court of Civil Judge (Junior Division), Hodal whereby injunction application filed under Order 39 Rule 1 and 2 CPC by the petitioners was dismissed and order dated 18.10.2022 (Annexure P-1) passed by the Court of Additional District Judge, Palwal whereby the appeal filed by the petitioners against order Annexure P-3, is also dismissed

2. The brief facts of the case are that petitioner No.1 Bharti is wife and petitioner No.2 is minor son of respondent No.2 Yash Kumar and respondent No.1 Suraj Mal is father of respondent No.2 Yash Kumar. The petitioners filed suit for permanent injunction to restrain respondent No.1 from alienating the suit property as detailed in the plaint, which is situated in village Deeghot, Tehsil Hodal, District Palwal on the ground that the suit property is ancestral in nature and is joint Hindu family coparcenary

property of parties to the suit and that respondent No.1 being *Karta* of joint Hindu family has threatened to alienate the said property without any legal necessity. Along with the suit, the petitioners also filed an application under Order 39 Rule 1 and 2 CPC to restrain respondent No.1 from alienating the suit property during the pendency of the suit.

3. The suit and injunction application as well, were contested by the respondents who filed written statement and written reply. The plea of the respondents is that the suit property is exclusively owned by respondent No.1. It was denied that the suit property is ancestral or is joint Hindu family coparcenary property of the parties.

4. After hearing both the parties the learned trial Court dismissed the injunction application vide order dated 07.10.2022 (Annexure P-3). Even the appeal preferred by the petitioners against order (Annexure P-3) was also dismissed by the appellate Court vide order dated 18.10.2022 (Annexure P-1).

5. Being aggrieved, the petitioners have filed the present revision petition against orders Annexure P-1 and Annexure P-3.

6. I have heard the counsel for the petitioners.

7. The counsel for the petitioners *inter alia* submits that the suit property is ancestral in the hands of respondent No.1 and petitioner No.2 being paternal grand son is having right in the suit property by birth. It is further contended that respondent No.1 being *Karta* of joint hindu family, is having no right to alienate the suit property without any legal necessity. It is further contended that prior to filing of the suit, respondent No.1 threatened to dispose of the suit property without their being any legal necessity. That

in case respondent No.1 succeeds in selling the suit property without legal necessity, then the petitioners will suffer irreparable loss and further *prima facie* case is made out in favour of the petitioners and balance of convenience also lies in their favour. The counsel for the petitioners further submits that the impugned orders being erroneous, deserve to be set aside.

8. I have considered the submissions made by counsel for the petitioners.

9. It is matter of evidence as to if the suit property is ancestral in the hands of respondent No.1. Further, as per the law laid down by Hon'ble Supreme Court in ***Sushil Kumar Vs. Ram Parkash AIR 1988 SC 576*** wherein it was held that suit for permanent injunction by coparcener against father or *Karta* of joint hindu family restraining him from alienating the suit property as there was no legal necessity to do so, is not maintainable and the coparcener has got remedy of challenging sale and getting it set aside in a suit subsequent to completion of sale.

10. In the light of aforesaid settled position of law the Courts below rightly held that the suit for permanent injunction filed by the petitioners is not maintainable and thus, the question of grant of injunction in favour of the petitioners does not arise. Further in case injunction is not granted, the petitioners would not suffer irreparable loss as the coparcener has got equally efficacious remedy to get the sale set aside and recover possession of the property.

11. For the forgoing reasons, this Court is of the view that there is no illegality or perversity in the impugned orders Annexure P-1 and Annexure P-3. No ground is made out warranting interference by this Court.

12.           Consequently, the revision petition is hereby dismissed being devoid of merits. However, the petitioners are at liberty to avail efficacious alternate legal remedy.

**15.12.2023**  
*Yogesh*

**(KARAMJIT SINGH)**  
**JUDGE**

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|------------------------------------|---------------|
| <b>Whether speaking/reasoned:-</b> | <b>Yes/No</b> |
| <b>Whether reportable:-</b>        | <b>Yes/No</b> |