

115.

2023:PHHC:150426

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

CR-7106-2023

Date of decision: 24.11.2023

GULWANT SINGH

.... Petitioner

Versus

GURDIAL SINGH AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Onkar Singh, Advocate, and
Mr. S.S. Aviraj, Advocate, for the petitioner.

GURBIR SINGH, J. (Oral)

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for issuance of direction to the trial Court to decide the application dated 30.10.2023 (Annexure P-3) filed under Order 39 Rules 1 and 2 CPC along with Civil Suit No.1321 of 2023.

2. Briefly stated, the petitioner-plaintiff (hereinafter called, “plaintiff”) filed a civil suit for declaration and for permanent injunction of the suit property, as mentioned in the headnote of the plaint. It was stated that the suit property is a joint Hindu Undivided property and plaintiff is one of the coparcener and is entitled for 1/3rd share in the property. The relation between the parties is, plaintiff and respondent/defendant No.4 are the sons respondent/defendant No.1 and respondent/defendant No.2 is the wife of

respondent/defendant No.4, whereas respondent/defendant No.3 is the daughter-in-law of defendant No.1. It was pleaded that defendant No.1 has executed gift deeds and sale deed in favour of defendants No.2 and 3, for which he has no right. The defendants are NRIs and it was the apprehension of plaintiff that they may sell the property in dispute. So, along with the suit, he also filed an application under Order 39 Rules 1 and 2 read with Section 151 CPC for grant of ad interim injunction. On 02.11.2023, the ex-parte ad interim junction was declined and notice of the application along with suit was issued for 15.11.2023. On 15.11.2023, defendants No.1 and 3 were represented by a counsel, whereas defendants No.2 and 4, who were served through Gurdial Singh i.e. father-in-law and father respectively, were ordered to be served again through munadi for 11.12.2023, on filing of munadi fees.

3. Learned counsel for the petitioner has contended that instead of proceeding ex-parte against defendants No.2 and 4, they have been again ordered to be served through munadi. It is submitted that respondent No.1 is going to sell the property and if the suit property is alienated, then it would lead to multiplicity of litigation.

4. It is submitted that the petitioner-plaintiff would be satisfied if respondent/defendant No.1 is restrained from alienating the suit property in any manner till the disposal of the application under Order 39 Rules 1 and 2 CPC.

5. Keeping in view that it is the duty of the Court to preserve the property as on the date of filing of the suit, so, without commenting on the merits of the case, the present petition is disposed of with a direction to the

learned court below to decide the application under Order 39 Rules 1 and 2 CPC expeditiously and till the disposal of said application, respondent-defendant No.1 is restrained from alienating the suit property in any manner except in due course of law.

(GURBIR SINGH)
JUDGE

November 24, 2023
sanjeev

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No