

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

128

CR-600-2024 (O&M)

Date of decision:06.02.2024

Aaisha & others

... Petitioners

Vs.

State of Haryana & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

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

Mr. S.K. Bawa, Advocate for the caveator/respondent No.4.

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SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by the petitioners/ plaintiffs against the order dated 27.07.2021 (Annexure P-2) passed by the Civil Judge (Sr. Division), Nuh, whereby prayer of the plaintiffs for grant of ad interim injunction had been declined and order dated 13.12.2023 (Annexure P-3) passed by the District Judge, Nuh, vide which alienation was made subject to the decision of suit.

2. Brief facts of the case are that plaintiffs No.1 to 3, who are the minor grand-children of plaintiff No.4, filed a suit through their mother – Sahina. Plaintiff No.4 is son of defendant No.3, who is alleged to be of unsound mind. Defendant No.4 is real brother of defendant No.3. The plaintiffs have challenged the transfer deed No.284/1 dated 31.05.2021, its mutation No.11302 dated 03.06.2021, transfer deed No.285/1 dated 31.05.2021 and its mutation No.2283 dated 03.06.2021, vide which defendant No.3 transferred the suit land in favour of defendant No.4. It has

been alleged by the plaintiffs that suit property is the ancestral property and as per family arrangement dated 15.06.2020, they are owners in possession of the suit property.

3. The plaintiffs also sought ad interim injunction for restraining the defendants from changing the nature of the suit property and from alienating the suit property during pendency of the suit by way of filing an application under Order 39 Rule 1 & 2 CPC.

4. On 27.07.2021, the case was fixed for service of notice to respondents No.3 and 4. Thereafter the case was adjourned to 30.07.2021 by the trial Court for filing written statement and reply to the stay application on behalf of respondents No.1 and 2 and for issuing notice to defendant No.3 through *Munadi* and to defendant No.4 through ordinary process. A request was made by counsel for the plaintiffs to grant ad interim injunction but it was observed by the trial Court that notice to defendants No.3 and 4 was still pending and defendant No.1 and 2 had not filed written statement; the plaintiffs had claimed the suit property as ancestral property and had claimed right in the suit property on the basis of some family arrangement dated 15.06.2020 but the relevant documents were not placed on record by the plaintiffs at the time of filing of the suit and the plaintiffs were not held entitled to ad interim injunction.

5. Against the order dated 27.07.2021 passed by the trial Court vide which the trial Court had refused to grant ad interim injunction in favour of the plaintiffs, appeal was preferred before the Appellate Court and vide order dated 13.12.2023, the said appeal was disposed of with the order that if the defendants alienate any part of the suit property before decision of

the application filed by the plaintiffs under Order 39 Rule 1 & 2 CPC, they would inform the trial Court about the execution of the transfer deed within one month from the date of execution of the transfer deed and would also produce copy of the transfer deed before the trial Court. Aggrieved of the said orders, the revision petitioners have knocked the doors of this Court by way of filing of the present revision petition.

6. It has been contended by learned counsel for the petitioners that the respondents are cunning, clever, forceful and strong headed persons and are trying to raise construction illegally, unlawfully over the suit land and want to usurp the land illegally and by showing force to create charge over the same, illegally and unlawfully. So in these compelling circumstances, the petitioners require a urgent and immediate relief against the respondents. He has further contended that the trial Court had adopted an erroneous approach while passing the impugned order dated 27.07.2021 and did not gave heed to the important aspect that in order to preserve the subject matter of the suit till the decision of the suit, it was appropriate to direct both the parties to maintain status quo regarding alienation, possession and construction and as such, it is a cryptic and infirm order. He has argued that all the three ingredients i.e. prima facie case, irreparable loss or injury; and balance of convenience required for granting temporary injunction exist in the present case. Decree of declaration of ownership rights on the basis of reversionary rights, maintenance rights and impugned transfer deeds with respect to the suit land, is sought by son and grandsons against the brother of executant of impugned transfer deeds, which makes it a prima case for granting stay. Irreparable loss would be caused to the plaintiffs, if the

construction was raised or alienation in any manner was made and balance of convenience is also in favour of plaintiffs as it is highly warranted that none of the parties be allowed to raise construction and alienate the suit property. He has further submitted that keeping in view the above, the impugned orders are not sustainable in the eyes of law and are liable to be set aside and the ad interim injunction as prayed for by the petitioners may be granted.

7. I have heard learned counsel for the petitioners at length and perused the pleadings on record.

8. It is not disputed that as per the revenue record, defendant No.3 was owner in possession of the suit land and he had executed the impugned transfer deed in favour of defendant No.4 and thereafter, the mutations have also been sanctioned in favour of defendant No.4. In the suit, defendant No.4 had filed an application under Order 7 Rule 11 CPC for rejecting the plaint, which is still pending adjudication before the trial Court. The application filed by the plaintiffs under Order 39 Rule 1 & 2 CPC is also pending before the trial Court. Defendants No.3 and 4 are yet to file the written statement and reply to the applications pending before the trial Court under Order 7 Rule 11 and under Order 39 Rule 1 & 2 CPC.

9. So keeping all these facts and circumstances in view, the Appellate Court has rightly disposed of the appeal by observing that if the defendants would alienate any part of the suit property before decision of the application filed by the plaintiffs under Order 39 Rule 1 and 2 CPC, they would inform the trial Court about execution of the transfer deed within one month from the date of execution of the transfer deed and would also

produce a copy of the transfer deed before the trial Court. Moreover, if defendants No.3 and 4 raise any construction over the suit land or would alienate any part thereof, it would be subject to the decision of the suit.

10. There is no illegality or infirmity in the impugned orders. Being bereft of any merit, this revision petition stands dismissed.

11. However, it is made clear that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

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

(SUKHVINDER KAUR)
JUDGE

06.02.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |