



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

(135)

CR-6437-2024

Date of Decision: -06.11.2024

TEJINDER SINGH

... Petitioner

Versus

HARBHAJAN KAUR AND ORS

... Respondents

-.-

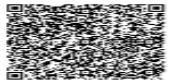
CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present:- Mr. Harchand Singh Batth, Advocate
for the petitioner.

ALOK JAIN, J. (Oral)

1. The present petition has been filed *inter-alia* praying for setting aside of the impugned order dated 12.07.2023 (Annexure P-7) whereby the learned Court of Civil Judge (Junior Division) dismissed the application moved by the petitioner under Order 39 Rule 1 and 2 read with Section 151 CPC and judgment dated 17.09.2024 (Annexure P-9) whereby the learned Court of Additional District Judge, dismissed the appeal filed against the order dated 12.07.2023.

2. Learned counsel for the petitioner has submitted that an agreement to sell was executed between the petitioner and one Balraj Singh on 20.08.2014 with regard to the land measuring 16 Kanals out of the total land measuring 25 Kanals and 17 Marlas; and the said area of 16 Kanals had to fall in the share of Balraj Singh, who was in litigation with his brothers



qua which partition suit was filed. Therefore, in the agreement to sell though the entire payment of sale consideration was recorded but it was also recorded that the sale deed would be executed after the partition proceedings are culminated. Subsequently since the said Balraj Singh expired in the year 2020, thereafter the legal heirs of Balraj Singh denied the said agreement to sell which necessitated the filing of the suit in the month of November, 2022 along with said suit an application under Order 39 Rule 1 and 2 read with Section 151 CPC was filed, so as to restrain the respondents from alienating the suit property. Learned counsel for the petitioner has vehemently argued that the Courts ought to have granted him concession of interim protection for the reasons that the petitioner had made the entire payment and has substantial right in the property and in case the respondents go ahead with alienation of the said property it will only lead to further multiplication of the lis and further the Courts had wrongly held that the balance of convenience does not fall in favour of the plaintiff.

3. Heard learned counsel for the petitioner at length and have gone through the orders passed by the learned Courts below which clearly demonstrates that the respondents have taken a specific stand that the document / agreement to sell dated 20.08.2014 is a forged and fabricated document and there was no occasion or reason for Balraj Singh to enter into the agreement to sell, more so, there is an inordinate delay of 8 long years in filing the suit for specific performance and in case the plea of the petitioner is considered that they had close family ties then also it cannot be taken as a ground that the petitioner was not aware, that the partition of the suit property had already taken place in the year 2019. The entire litigation has been started by the petitioner in the year 2022, after the death of Balraj Singh



in the year 2020 and it is settled principle of law that injunction cannot be granted against the true owners.

4. In the light of the above, this Court does not find any merit in the present petition. Needless to say that the doctrine of lis pendens would always be there and therefore the petitioner has not been able to demonstrate a *prima-facie* case or balance of convenience in his favour. More so, no irreparable loss would be caused to him as he himself chose to remain silent for 8 long years.

5. In view of the above, present petition is hereby dismissed. However any observation made in the present order cannot be considered on the merits by the trial Court.

06.11.2024
Gaurav Sorot

(ALOK JAIN)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No