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

CR-5654-2025**Date of decision: 25.08.2025**

**SANJAY KUMAR AHLAWAT @ SANDEEP (DECEASED)
THROUGH LRS.**

..Petitioner**Versus**

VIJAY LUXMI AND OTHERS

..Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Rajiv Kumar Saini, Advocate
for the petitioner.

SUDEEPTI SHARMA, J. (Oral)

1. Present petition has been filed for quashing the impugned order dated 08.12.2023 passed by learned Civil Judge (Junior Division), Rohtak, District Rohtak, whereby the application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908, filed by respondent No.1-plaintiff has been allowed and judgment dated 19.12.2024, whereby appeal filed by the petitioner against order dated 08.12.2023 was dismissed by learned Additional District Judge, Rohtak.

2. Learned counsel for the petitioner contends that application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908, filed by the plaintiff has wrongly been allowed despite the fact that learned Civil Judge (Junior Division), Rohtak, observed that no *prima facie* case in



favour of the plaintiff qua the property except Chand Ram Dairy estate is made out.

3. I have heard learned counsel for the petitioner and have perused the case file with his able assistance.

4. It would be apposite to reproduce relevant portion of impugned order dated 08.12.2023 passed by learned Civil Judge (Junior Division), Rohtak:-

“10. On having heard both sides, I have gone through case file very carefully. Perusal of file shows that plaintiff had two brothers namely Sanjay (since deceased) and Ajay and three sisters namely Parkash Devi (since deceased), Kamlesh and Bhagwati Bains. The plaintiff has not impleaded Kamlesh and Bhagwati in either of the suit.

11. Record further shows that property mentioned in para No. 2(c) measuring 7 acres situated in Vishal Nagar and property mentioned in para No. 2(d) measuring 3 acres were purchased in the name of Durga Devi and her two sons i.e. Sanjay and Ajay. It comes up that out of 3 acres of para No. 2(d), a hotel under name and style of Crystal Hotel has been constructed on 1½ acres area.

12. Plaintiff asserts that she was given 2 bigha land out of property 2(c) by her parents which is now known as Chand Ram Dairy. To show her ownership, she has produced an endorsement dated 22.02.2013 written and signed by her parents as well as two witnesses. The counsel for defendants questioned legality of this document by contending that it cannot be termed as any of the modes for transferring immovable property as per the Transfer of Property Act. Technically, he seems correct however keeping in mind the extent of applicability of Transfer of Property Act in the State of



Haryana and the societal norms, I am of considered opinion that no straightaway opinion can be formed qua legality of this document at this preliminary stage. The parties would require to adduce evidence on this point. Version of plaintiff that she is residing in Dairy is prima-facie supported with all her documents pertaining to her identity. Moreover even defendants have not specifically disputed this fact. They have not denied her possession. Therefore in my considered opinion, plaintiff is duly entitled to protect this portion from alienation and dispossession, atleast till final decision of the case.

13. It is further appreciated that through various sale deeds, late defendant No. 1/3 sold various portions out of properties 2(c) and 2(d) in favour of defendants No. 4 to 10. These alienations have been done on strength of impugned Will No. 925 dated 03.12.2015. When this Will is seen, its contents would reveal that testator Durag Devi had mentioned the reason of exclusion of her other son namely Ajay on the ground that when he separated, he was given sufficient movable assets and reason of exclusion of daughters was given that they were married in well of families where they were happy and content. The Will is registered document. However the presumption of correctness is always rebuttable.

14. It is further noted that defendants No. 1 & 2 have completely sold their shares qua property 2(c). Out of total 1922 sq. yds., 1722 sq. yds. have been sold and 200 sq. yds. is lying with defendant No. 3. Durga Devi had sold some part herself during her lifetime and remaining part given to defendant No. 1 by way of Will. It would be a matter of trial to see as why out of six children, entire estate was given to only defendant No. 1? It is further appreciated that the alienations out of estate have taken place from year 2017 itself.



15. On conjoint appreciation of pleadings of parties, it is observed that the authorities cited by counsel for defendants No. 1 & 3 are not applicable to this case. I am of considered opinion that various triable issues are involved in the matter. Though I do not find prima-facie case in favour of plaintiff qua the properties except Chand Ram Dairy estate still keeping in mind the other litigation, I am of considered view that if defendants would not alienate the properties then no irreparable loss shall be caused to them but if they would do so then it would certainly lead to multiplicity of litigation. Hence without commenting anything on merits of the case, stay application in hand is partly allowed to the extent that the defendants are restrained from interfering in peaceful possession of plaintiff on Chand Ram Dairy Estate measuring 2 bigha mentioned in para No. 2(c) of plaint of main suit and from alienating it or from creating any charge on it and qua remaining properties, parties are directed to maintain status-quo qua alienation. Both stay applications stand disposed of.”

5. A perusal of the impugned order shows that three civil suits are pending between the parties. Since, the applicant/respondent No.1 specifically mentioned in her application that the property in question i.e. Chand Ram Dairy is owned by respondent No.1 and it was given to her by her parents more than 20 years ago, which is possessed by her, to avoid multiplicity of litigation, learned Civil Judge (Junior Division), Rohtak has rightly directed the parties to maintain status quo qua alienation, which is in the interest of all the parties.



7. In view of the same, the impugned order dated 08.12.2023 requires no interference and the same is upheld. Accordingly, the present revision petition is ***dismissed***.

8. Pending miscellaneous applications, if any, are also disposed of.

August 25th, 2025
Ayub

(SUDEEPTI SHARMA)
JUDGE

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