

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

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CR-2718-2025 (O&M)**Date of decision: 13.08.2025****Daksh (Minor) through natural guardian and another ...Petitioner(s)****Vs.****Sudha and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rajiv Sharma (Hisarwale), Advocate with
Ms. Indu Bala Sharma, Advocate for the petitioners.

Mr. Kunal Dawar, Advocate with
Ms. Shruti Mandhotra, Advocate for
respondents No.1 to 5.

NIDHI GUPTA, J.**CM-10732-CII-2025**

This is an application under Section 151 CPC for placing on record the order dated 16.07.2025 passed by learned Civil Judge (Junior Division), Faridabad, as Annexure P-10.

2. Heard.

3. Application is allowed and the order dated 16.07.2025 passed by learned Civil Judge (Junior Division), Faridabad is taken on record as Annexure P-10, subject to all just exceptions.

4. Registry is directed to tag the same at appropriate place.

CR-2718-2025 (O&M)

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the plaintiffs for setting aside the



order dated 08.04.2025 passed by the learned Additional District Judge, Faridabad (Annexure P-8); whereby the order dated 16.07.2024 passed by learned Civil Judge, Faridabad (Annexure P-6), had been set aside.

2. Brief facts of the case are that the petitioners, who are minor and are being represented through their mother Smt. Anjali, had filed a Civil Suit dated 02.03.2023 (Annexure P-2) for declaration and permanent injunction. It was the case of the petitioners before the Civil Court that their grandfather Sh. Dharambir was co-owner in joint possession of the suit property. Dharambir had died on 26.09.2019. He had executed a registered Will No. 174 dated 05.07.2019 in favour of his daughters/defendants No. 2 to 6. It was the case of the petitioners/plaintiffs that subsequently Dharambir had executed another Will dated 27.07.2019 as his last and final Will superseding the previous Will dated 05.07.2019, as per which, plaintiffs were owners in possession of suit land to the extent of 2/3rd share and wife of Dharambir/defendant No.1 was owner to the extent of 1/3rd share. Alongwith the Civil Suit, petitioners had filed an application under Order 39 Rules 1 and 2 read with Section 151 CPC which was allowed by the learned Civil Judge (Junior Division), Faridabad vide order dated 16.07.2024 (Annexure P-10). Against the same, Civil Miscellaneous Appeal dated 30.08.2024 (Annexure P-7) was filed by defendants No.1 to 6; which has been allowed by the learned Additional District Judge, Faridabad vide impugned order dated 08.04.2025 (Annexure P-8). Hence, the present Civil Revision Petition filed by the petitioners/plaintiffs.



3. It is *inter alia* submitted by learned counsel for the petitioners that the learned lower appellate Court was in patent error in allowing the Civil Miscellaneous Appeal filed by defendants No.1 to 6 as it failed to appreciate that if the land in dispute is alienated by the respondents and compensation of the acquired land is taken by the respondents then irreparable loss would be caused to the petitioners as the petitioners are mere minors. It is submitted that malafide intention of the respondents is also made out from the fact that respondents No.1 and 2 have even filed a petition under Section 7 read with Section 10 of the Guardian and Wards Act for taking custody of the minor petitioners. It is contended that respondents/defendants, are resorting to every means in order to take forcible possession of the suit land and trying to grab the entire compensation of the acquired land. It is accordingly prayed that the present Civil Revision Petition be allowed; and the impugned order be set aside.

4. *Per contra*, learned counsel for the respondents opposes submissions made on behalf of the petitioners and refers to the impugned order to submit that valid reasons have been given therein for setting aside the order of the learned trial Court. It is submitted that the petitioners have not approached this Court with cleans hands as material facts have been concealed *in-as-much* as the petitioners have failed to disclose that plaintiff No.1 has previously filed 2 Civil Suits seeking their share in the suit land on the basis of an alleged oral family settlement. It is submitted that in the said suits, there is no mention of the alleged Will dated 27.07.2019;



thereby proving that an entirely false case has been set up by the petitioners. It is further pointed out that in pursuance to the Registered Will dated 05.07.2019, mutation entries have been sanctioned in favour of the respondents to the extent of 1/7th share in the suit property as reflected in the jamabandis. Therefore, the Will dated 05.07.2019 was acted upon. It is accordingly prayed that the present Civil Revision Petition be dismissed.

5. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find merit in the submissions made on behalf of the petitioners.

6. The factum of the veracity, authenticity and legality of the Will dated 27.07.2019 is a matter of trial and can only be decided after leading of evidence. The arguments of the respondents to the effect that revenue entries in their favour have been sanctioned on the basis of Will dated 05.07.2019 and regarding the authenticity of the Will dated 27.07.2019 are all matters of trial and can only be determined upon leading of evidence. For the purposes of grant of interim injunction, it is sufficient that the petitioners have a Will dated 27.07.2019 in their favour which *prima facie* establishes a case in their favour. The plaintiffs being minor, the balance of convenience also lies in their favour for protection against the violation of their rights by the defendants. Further, irreparable loss and injury will be caused to the petitioners in case respondents are not enjoined from alienating the suit land during the pendency of the Civil Suit. I am not convinced by the reasoning of the learned lower appellate Court in para 14 of the impugned order dated 08.04.2025 that even if the respondents



alienate their share during the pendency of the present suit, the principle of lis-pendense will apply. Rather, the same will result in multiplicity of litigation, which has been discouraged and decried by Hon'ble Supreme Court in numerous judgments.

7. Even if it is assumed that the Will dated 27.07.2019 is executed in suspicious circumstances, the same is required to be proven. By producing the said Will, plaintiffs have established *prima facie* case in their favour; and no doubt, irreparable loss and injury shall be caused to the plaintiffs in case the suit land is alienated during the pendency of the present Civil Suit.

8. It may also be pointed out that petition filed by respondents No.1 and 2 under the Guardian and Wards Act has been dismissed by the learned Additional Principal Judge, Family Court, Faridabad vide judgment dated 12.03.2025 (Annexure P-9). The observations made by the learned Family Court are contained in para 20 of the judgment dated 12.03.2025, are relevant which read as under:-

"20. Thus, in view of abovesaid discussion, no such circumstances have been shown by the petitioners that respondent is not capable of taking care of minor children. This Court comes to the conclusion that the respondent (mother) is in better position to look after the financial security, maintenance of the child with regard to proper lifestyle, healthcare, emotional, physical and medical development. Thus, it will be in the welfare of the children that they remain in the custody of the respondent-mother as they are comfortable in her company and is very well looked after by the respondent. No such exceptional circumstances have been



proved by petitioners to change custody of minor children from their biological mother/natural guardian to petitioners. Hence, these issues are decided against the petitioners and in favour of respondent.”

9. The above observations of the learned Family Court lend credence to the assertion of the petitioners that the respondents are attempting to grab the suit land by any means. Keeping in view the above said facts, present Civil Revision Petition is **allowed**; and the impugned order dated 08.04.2025 (Annexure P-8) passed by learned Additional District Judge, Faridabad is set aside; and order dated 16.07.2024 (Annexure P-6) passed by learned Civil Judge, Faridabad is restored. Respondents are further restrained from alienating the land in dispute and from taking compensation of the acquired portion of the land in dispute, till the pendency of the Civil Suit.

10. Pending applications, if any, stand disposed of.

13.08.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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