



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

251

CR-214-2022 (O&M)
Date of decision: 22.05.2025

Achhar Singh and another

...Petitioners

V/s

Smt. Rajindera and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Jagram Singh Cooner, Advocate, for the petitioners.
Mr. Anshul Gupta, Advocate, for respondents No.1 and 2.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 21.12.2021 (Annexure P-10) passed by the Court of Additional District Judge, Panchkula, dismissing the appeal filed against the order dated 10.11.2021 (Annexure P-9) passed by the Court of Civil Judge (Jr. Divn.), Panchkula, vide which the application preferred by the petitioners-plaintiffs under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short the "CPC") for the grant of ad interim injunction was dismissed.

2. The facts, as emanating from the revision petition, are that the petitioners-plaintiffs instituted a suit for declaration to the effect that registered sale deed dated 08.04.1997 executed by the father of the petitioners-plaintiffs namely Ram Kishan with respect to the land measuring 0-5 biswas, situated in Village Ratpur, Pinjore, Teshil Kalka, District Panchkula (hereinafter to be referred to as the "suit property") in favour of respondent-defendant No.1 (Smt. Rajindera) was illegal, null and void and the same had been executed without legal necessity. The subsequent sale deed dated 09.01.2012 executed by respondent-defendant No.1 (Smt. Rajindera) in favour of respondent-defendant No.2 (Kiran Garg) was also sought to be



declared illegal, null and void on account of the previous sale deed being null and void.

3. The basic case set up was that the suit land was ancestral property and, therefore, the same could not have been alienated except for legal necessity. It was also averred that as Ram Kishan was an illiterate person, respondent-defendant No.1, by exercising fraud and illegal means got the sale deed dated 08.04.1997 executed in his favour and thereafter executed sale deed dated 09.01.2012 in favour of respondent-defendant No.2. The suit was accompanied by an application under Order 39 Rules 1 and 2 CPC (Annexure P-2).

4. The suit was opposed. In the written statement filed by respondent-defendant No.1 (Smt. Rajindera), certain preliminary objections as regards maintainability, cause of action, limitation, estoppel, plaintiffs having suppressed true facts were raised. It was averred that the suit property was not ancestral property and that Karam Chand, who was the father of Ram Kishan, had bequeathed his entire property including the suit property in favour of his widow Smt. Kishni and his sons by way of a Will. It was averred that under the circumstances, the suit property could not be said to be ancestral property. On merits, a similar stand was taken. Reply (Annexure P-4) to the application for the grant of ad interim injunction was also filed. Defendant No.2 filed a separate written statement (Annexure P-5) primarily raising the ground that her being a *bona fide* purchaser of the suit property. She also opposed the application for the grant of ad interim injunction by way of reply (Annexure P-6).

5. By way of order dated 10.11.2011, the application for the grant of ad interim injunction was dismissed by the Court of Civil Judge (Jr. Divn.),



Panchkula. The appeal preferred against the said order was also dismissed by the Court of Addl. District Judge, Panchkula vide order dated 21.12.2021.

6. I have heard learned counsel for the parties.

7. Learned counsel for the petitioners submits that both Courts have erred in rejecting the application for the grant of ad interim injunction. Learned counsel submits that the petitioners were able to prove that they had a *prima facie* case in their favour and that the balance of convenience was in their favour and that in case of non-grant of injunction, the petitioners would suffer an irreparable loss.

8. *Per contra*, learned counsel for the respondents submits that the petitioners have not been able to prove even a *prima facie* case in their favour, for, the suit property had been transferred by way of a Will by the father of Ram Kishan as a result of which, the suit property cannot be said to be ancestral property. Still further, he submits that there are a number of co-sharers in the joint *khata* and, therefore, even otherwise, no injunction could have been granted. He submits that both Courts rightly dismissed the application for the grant of ad interim injunction.

9. I have considered the submissions made by learned counsel for the parties.

10 Admittedly, the suit property was devolved upon Ram Kishan by way of Will as a result of which it cannot be said that the suit property was ancestral property. The petitioners-plaintiffs, therefore, were not able to prove even a *prima facie* case in their favour. Further, they were not able to prove that the balance of convenience was in their favour and that in case injunction was not granted, they would suffer some irreparable loss. In any case, the petitioners-plaintiffs are protected by the provisions of Section 52 of



the Transfer of Property Act, 1882. I do not, therefore, find any illegality or jurisdictional error in the view taken by both Courts warranting interference in the revisional jurisdiction.

11. That being so, I do not find any merit in the present revision petition and the same is accordingly dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

May 22, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No