



CR-5254-2025 (O&M)

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

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**CR-5254-2025 (O&M)
Decided on :- 05.09.2025**

Nachhattar Kaur and Others

....Petitioners

VERSUS

Harcharan Singh and Others

...Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Aayush Gupta, Advocate for the petitioners.

Mr. B.B.S.Sobti, Advocate for respondent Nos. 1 and 2.

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MANDEEP PANNU J.

1. The petitioners/defendants have filed the present revision petition under Article 227 of the Constitution of India challenging the interim order dated 31.05.2025 passed by the learned Additional District Judge, Ludhiana, in case bearing No. CA-554-2025, whereby during pendency of the appeal filed under Order 43 Rule 1(r) CPC, the petitioners/defendants No. 1 to 4 have been restrained from alienating the suit property till the disposal of the said appeal.

Brief Facts

2. The brief facts, as necessary for the disposal of the present petition, are that the plaintiffs/respondents No. 1 and 2 instituted a suit for mandatory injunction directing defendants No. 1 to 4/petitioners to comply with the terms of agreement dated 09.07.2021. Under the said agreement, defendants No. 1 to 4 had allegedly undertaken to take care of multiple litigations concerning the land in dispute, while all expenses were to be borne by the plaintiffs. It was further agreed that once the land is cleared of litigation and mutation of ownership is effected in the name of defendants No. 1 to 4, then upon sale of the property, half of the sale proceeds would be shared with the plaintiffs in the ratio of 60:40.

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3. It is the case of the plaintiffs that in disregard of above agreement, defendants No. 1 to 4 entered into an agreement to sell the property to defendant No.5 without adhering to their commitment under the aforesaid agreement. Consequently, the plaintiffs sought injunction under Order 39 Rules 1 & 2 CPC restraining defendants No. 1 to 4 from alienating the property without paying half of the sale proceeds to the plaintiffs.

Findings of the Trial Court

4. The learned trial Court, after hearing both sides, dismissed the application under Order 39 Rules 1 & 2 CPC vide order dated 09.05.2025, holding that the agreement relied upon by the plaintiffs was depend on a future event and was not presently enforceable. It was further held that there was no clause in the agreement restraining alienation of the land, and hence no prima facie case, balance of convenience or irreparable injury was made out.

Findings of the Appellate Court on Application under Order 39 Rules 1 & 2 CPC

5. Aggrieved, the plaintiffs filed an appeal under Order 43 Rule 1(r) CPC. During pendency of the said appeal, an application under Order 39 Rules 1 & 2 CPC was filed. After hearing the parties, the learned Additional District Judge, Ludhiana, passed the impugned interim order dated 31.05.2025 restraining defendants No. 1 to 4 from alienating the suit property till the disposal of the appeal.

Consideration**6. On Maintainability of the Revision Petition**

It is well settled that orders passed under Order 39 Rules 1 & 2 CPC are appealable under Order 43 Rule 1(r). Once such an appeal is pending before the lower Appellate Court, any interim order passed therein is not further



appealable. The only remedy available to the aggrieved party is to approach this Court under Article 227 of the Constitution of India, but interference is warranted only in cases of jurisdictional error, perversity, or manifest illegality. Thus, technically, the present petition is maintainable.

7. On the Objection Regarding Maintainability of the Suit

The contention raised on behalf of the petitioners that the suit for mandatory injunction is barred under Section 41(h) of the Specific Relief Act, 1963 and that an alternative remedy of recovery is available, is not required to be adjudicated in the present revision petition. Such issues concerning the maintainability of the suit fall within the domain of the trial court in the main proceedings. This Court, while examining an interlocutory interim order passed during pendency of an appeal, cannot decide upon the merits of maintainability of the underlying suit. Reliance placed upon by the learned counsel for the petitioners in the case of *Spectrum Life Medical Device Private Limited Vs. Eme Super Speciality Hospital Private Limited and Others, 2019(3) PLR 353* is of no help to the petitioners in view of the observations made herein-above.

8. On Interference with the Impugned Interim Order

The scope of interference in interlocutory and discretionary orders is limited. The impugned order is merely a protective order restraining alienation during pendency of the appeal. It does not decide the final rights of the parties. The appellate court, while exercising discretion, has attempted to preserve the subject matter of the suit. No jurisdictional error or perversity has been shown.

Conclusion

9. In view of the above discussion, no ground is made out for interference by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India. The revision petition is accordingly dismissed.



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10. However, keeping in view that the appeal before the Lower Appellate Court has been pending since May 2025, the learned Additional District Judge, Ludhiana, is directed to dispose off CA-554-2025 expeditiously, preferably within a period of one month from the date of receipt of a certified copy of this order.

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

September 05, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No