

Present: Shri S.K. Sharma, Advocate for plaintiff.
Shri Subhash Sain, Advocate for defendants

ORDER:

Vide this order, I shall decide the application filed by plaintiff, who is a minor, against defendants with prayer to restrain them from alienating or creating any encumbrance on the suit land (detailed in head note and para No. 1 of plaint) till final decision of the case.

2. Reply filed. Arguments heard.

3. During arguments, the counsel for plaintiff contended that his client has right by birth in the suit land. By referring to the documents annexed with the plaint and by reiterating its contents, it is stated that late Ranbir did not have any right to alienate the suit land. He has done so only to usurp the birth right of plaintiff. It is argued that despite effecting compromise and making a writing before panchayat for giving share of plaintiff, defendants have turned dishonest. Now they are trying to alienate the land further. If they would succeed in doing so then he irreparable loss shall be caused to plaintiff. Hence the request for stay.

4. On the other hand, the counsel for defendants argued that the suit is not maintainable because plaintiff is not a coparcener. Grandfather of defendant No. 1 had received land through Court decree. Actually this litigation has been filed at behest of mother of plaintiff who is having matrimonial dispute with her husband. As far as alleged writing is concerned same do not endow any legal right on plaintiff. Moreover the land mentioned in it is more than the actual share of plaintiff, even if his version is taken as it is. It is stated that plaintiff does not have any prima facie case

or balance of convenience. In these circumstances, no ground is made out to grant the stay.

5. On hearing both sides, I have gone through the case file very carefully. It is noted that mother of minor plaintiff has expired. She was having matrimonial dispute with father of plaintiff i.e. defendant no.1. This suit has been filed by plaintiff through his maternal grandfather with whom he is living.

6. First of all, it is relevant to mention that coparcenary is formed among four degrees of male lineal descendants. Plaintiff would form coparcenary with his father Govind, grandfather Ranbir Singh and great grandfather Pritam Singh.

7. In this case, revenue records show that initially the land was held by Jug Lal. He had suffered a court decree on 03.11.1978 in favour of his son Pritam Singh, Sheonan, Ranbir Singh and Jile Singh in equal shares. On death of Pritam Singh, through mutation of inheritance bearing No. 2488, on 24.10.1979, 1/4 share of Pritam Singh came to his wife and children including Ranbir Singh. It is evident from Jamabandi year 1989 – 90. He sold 19 kanal land in 2014. Thereafter he remained owner of 85 Kanal 16 Marla land. Out of it, he sold 2 Marla land in favour of defendant No. 8 through sale deed No. 3179 dated 17.12.2021 & mutation No. 4799 and 12 kanal in favour of defendant No. 7 vide sale deed No. 155 dated 09.04.2021 (impugned sale deeds). It is not disputed that Ranbir Singh has expired.

8. I am of considered opinion that though Jug Lal had suffered a court decree and the moment he did so, the land in the hands of Pritam Singh

became his self acquired property. However Pritam Singh falls within four degrees of male lineal descendants with plaintiff. Hence property in his hands would be treated as ancestral property. Whether late Ranbir was legally competent to execute impugned sale deeds, whether he had legal necessity etc. would be clear during trial, by way of evidence. Prima facie, at this stage, the land looks ancestral and coparcenary property of plaintiff. Though as per customs in Punjab and Haryana, a son cannot seek partition during lifetime of his father but considering the intent of the Hindu Succession Act, in my considered view, plaintiff can certainly seek stay on further alienation which has already been done. He can challenge the impugned sales. With regard with the other land standing in the name of Ranbir Singh, on his death, qua plaintiff his father namely Gobind has become *Karta*. It is well settled that no injunction can be granted against *Karta* and the only option which plaintiff has is to challenge the allegation if same is done by Gobind. As far as writing dated 04.05.2022 is concerned, no comment qua its impact can be made at this stage. Things would be clear after evidence. Prima facie this writing is not any of the modes recognized legally to transfer a property.

9. Consequent to above discussion, without commenting anything on merits, application in hand is partly allowed and defendants No. 7 and 8 are restrained from alienating the land received by them through transfers effected by Ranbir Singh i.e. impugned sale deeds. Remaining prayer is declined.

10. Replication not filed. Parties have not opted to resolve the dispute by any alternate dispute resolve mechanism as provided under

Section 89 CPC. From the pleadings of the parties and after hearing the Learned Counsel for the parties the following issues are hereby framed as under:-

1. Whether suit is maintainable in present form? OPP.
2. Whether suit land is ancestral and coparcenary property of plaintiff and whether plaintiff is entitled for declaration qua his co-ownership in it and whether sale deed No.3179 dated 17.12.2021 and sale deed No.155 dated 09.04.2011 alongwith mutations No.4799 and 4728 are illegal, not binding on rights of plaintiff and whether he is entitled to get declaration to get above set aside, against defendants as prayed?OPP
3. Whether plaintiff is entitled to get decree of permanent injunction against defendants, as prayed for?OPP.
4. Whether plaintiff lacks cause of action and locus standi to file the present case?OPD
5. Whether plaintiff has concealed material and true facts and whether he approached the Court with soiled hands and whether suit is liable to be dismissed on these grounds? OPD
6. Whether court fee affixed by plaintiff is less and whether suit is liable to be dismissed on this ground?OPD
7. Relief.

No other issue was passed or claimed. Now to come upon 28.11.2025 for evidence of plaintiff. Witnesses be summoned on filing of PF/DM/list of witnesses within 15 days. Examination in chief of the private witnesses shall be in the shape of affidavit.

Announced in Open Court
23.07.2025

(Sandeep Kumar)
Addl. Civil Judge (Sr. Divn.)
Narwana, UID No. HR0421

Naresh Kumar

(Sandeep Kumar)
Addl. Civil Judge (Sr. Divn.)
Narwana, 23.07.2025
UID No. HR0421