

(2011) 03 P&H CK 0759

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 1808 of 2011 (O and M)

Sunita and Others

APPELLANT

Vs

Rajinder and Others

RESPONDENT

Date of Decision: March 15, 2011

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: M.M.S. Bedi, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

M.M.S. Bedi, J.

The Plaintiff-Petitioners have filed a suit for declaration that they being coparcener with their father-Defendant No. 1, Defendant No. 1 is not entitled to sell the property. They also seek an injunction against their father, a coparcener of the property in dispute to alienate the property and to receive the sale consideration.

2. Vide impugned order an interim relief to restrain the Defendants from making the payments of post dated cheques to Defendant No. 1 has been declined. A perusal of the application for interim injunction indicates that the Plaintiffs claimed that they are legally entitled to receive their share out of the total sale consideration of Rs. 53479167/-. It is for the Plaintiff-Petitioners to satisfy the Courts below that they have got prima facie a strong case in their favour and that balance of convenience lies in their favour. They are also required to establish that irreparable loss will be suffered in case the sale consideration is received by their father. The order refusing injunction is an appealable order. This revision petition against the order refusing to grant interim relief is not maintainable.

3. Counsel for the Petitioners submits that in exercise of powers under Article 227 of the Constitution of India this Court has got jurisdiction to decide this revision petition.

4. The argument is misconceived. Mere existence of an alternative remedy would make a petition under Article 227 of the Constitution of India not maintainable, in the circumstances of the present case.
5. Dismissed without prejudice to the rights of the Plaintiff-Petitioners.