

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.130 of 2012

Date of Decision.28.04.2015

Deep Karan Singh and another

.....Petitioners

Versus

Darshan Singh and another

.....Respondents

Present: Mr. APS Tung, Advocate
for the petitioners.

Mr. G.S. Sirphikhi, Advocate
for respondent No.1.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The purchaser from the defendant during the pendency of suit had filed an application before the lower Appellate Court for impleadment as assignee of interest of the party to the suit. The plaintiff's suit had been originally dismissed and the plaintiff is the appellant. The objection taken by the plaintiff-respondent was that there had been a restraint against alienation by an order of Court and the petitioner's vendor had himself given an undertaking not to sell the property. He had sold the property against the directions of the Court and therefore, his purchase cannot be taken as valid for allowing the person the benefit of representation.

2. The expression 'legal representative' is a larger term than a legal heir. Even an interloper of the estate could be stated to be

representative of the estate. Even if the sale is invalid and he has come to contest an issue and wants to protect his own interest to whatever it means, he should be permitted to do so. After all the plaintiff cannot be in any way prejudiced for whatever defence that is possible from the defendant against him. The relief that he sought for will become possible at the instance of person claiming to be a purchaser. The Court need not decide on the validity of the sale but the Court will only decide on the title as pleaded by the plaintiff which was failed to be established before the trial Court and in appeal, there shall be a defence to make possible a contention that the trial Court's order was justified and that cannot be assailed. Such a contention will be possible only in the presence of the petitioner who claims some interest in the property however, defective his title could be and I will not fetter his right of audience by keeping him off the litigative field.

3. The order impugned is set aside and the impleadment is ordered. The petitioner will have no right to let in any defence regarding his purchase or seek for any oral evidence. He shall be only interested in supporting the decision the same way as is alleged at the time of trial of the case. With these observations, the civil revision is disposed of.

(K. KANNAN)
JUDGE

April 28, 2015
Pankaj*