

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

C.R. No.2859 of 2015

Date of Decision.15.05.2015

Ram Saran

.....Petitioner

Versus

Inder Sain and others

.....Respondents

Present: Mr. Jagdish Manchanda, Advocate
for the petitioner.

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 plaintiff, who sought for framing certain issues, is aggrieved that the Court has not framed the issues relating to a decree set up by the defendant as a source of title and the validity of the transfer which is propounded by the defendant.

2. The suit is filed for recovery of possession and for partition claiming right to the property through the alleged decree obtained in the year 2009. The defendant has taken a plea that the decree cannot transfer title in favour of the plaintiff. The plaintiff has obtained an agreement of sale from one of the defendants and without enforcing the agreement, he has filed a suit and taken a decree. The defence, therefore, is that a decree which is not registered and a transaction which has not constituted a transfer of interest in the property cannot give a basis for the plaintiff to lay claim to the property. The suit will stand or fall on the validity of the decree under which the plaintiff claims

and it will be irrelevant for the Court to be considering whether a decree passed in favour of the defendant in the year 1980 was valid or not. I will not place the finding of the Court below on its reasoning that a replication is not a part of the pleading. I take a replication also to be a part of the pleading but I will still find that the issues which the plaintiff seeks for inclusion do not really address the points which are necessary for adjudication in this case. They are needless matters and would not require any adjudication for the Court to address. I do not, therefore, find any cause for intervention.

3. The petitioner is also aggrieved that his own application to summon some records containing the decree as well as sale deed was declined by the Court below. A decree is a public document and a sale deed is also a public document. The petitioner has power under Section 76 CPC to apply for certified copies and produce the same. They do not require to be summoned from the court records.

4. The civil revision petition is disposed of with the above observations.

(K. KANNAN)
JUDGE

May 15, 2015
Pankaj*