

201.

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

Civil Revision No.3680 of 2013

Date of decision: 24.12.2015

Gurdial Singh

... Petitioner

versus

Smt. Manjit Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Arvinder Arora, Advocate,
for the petitioner.

Mr. Pradeep Sharma, Advocate,
for Mr. B.S. Makkar, Advocate,
for respondents 7 and 10 to 12.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The revision petition is against an order allowing an application under Order 41 Rule 27 CPC in an appeal filed by the plaintiffs who lost their suit. The plaintiffs' claim to the whole of the property was on the basis that half share belonged to them already and yet another half share had been claimed by the father in exercise of right to preemption through a suit filed against one Pyar Kaur. The plaintiffs' suit was dismissed holding that the decree

allowing for certain payments to be made had not been proved as paid. At the appellate court, the plaintiffs sought to produce 3 documents: (i) application to Treasury Officer for payment of preemption money; (ii) record of the Treasury Office showing that the deposit had been made; and (iii) jamabandi and khasra girdhawaris for the relevant years. The application was allowed and the counsel argues that the application could not have been decided without reference to the appeal.

2. Even while holding that the procedure adopted was wrong, I notice that there had been no objection taken by the defendant that the application should not be taken independently. If the documents are received by the court, then the issue would be whether such documents required any further proof and in which case, the court has a power under Order 41 Rule 28 CPC to call for evidence as regards the genuineness of the documents or could collect evidence itself and treat them as part of evidence. All the documents filed were the public documents and if the court had received them, I do not find any prejudice as having resulted to the petitioner to complain in revision.

3. The court's intervention in revision will at all times be circumscribed by whether any prejudice is caused by the order passed. In ideal situation of how the court should take up the application along with the appeal was let go by the defendant

himself by not taking an objection and if the documents received were after all public documents, genuineness of which cannot be impeached, I will find that the case must only go to the next stage of arguments and the respondents shall be at liberty to contend for whatever objections that they have about the documents received by the court, if they are irrelevant.

4. The order is maintained and the revision petition is dismissed.

(K.KANNAN)
JUDGE

24.12.2015
sanjeev