

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

CR No. 3828 of 2013 (O&M)

Date of decision: September 29, 2015

Baljinder Singh and another

...Petitioners

Versus

Jagir Singh and others

...Respondents

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?

Present: Mr. Som Nath Saini, Advocate,
for the petitioners.

Mr. Anil Chawla, Advocate,
for respondent No.1.

K. KANNAN, J. (Oral)

1. The revision is at the instance of the defendant against whom an ex-parte decree was passed on 27.10.2003. The court found the endorsement of refusal on the registered cover as establishing the knowledge and declined to entertain the prayer for setting the ex-parte decree. The court had also cited yet another reason of the defendant being a regular visitor of the village, although he had admittedly shifted out of the village and the defendant's own interest for coming to the village was because he had some lands in the village. Against the concurrent orders of dismissal, the learned counsel appearing on behalf of the petitioners states that the property in suit belonged to the father originally and the

respondent/plaintiff had sought for declaration that he was the owner without even setting forth how he obtained exclusive ownership to the property without reference to the petitioner, who was his brother jointly in the suit property. I sought the assistance of the respondent as to how he was claiming exclusive possession and the learned counsel for the respondent says that the defendant himself was in possession of his share and the property in suit belongs only to the plaintiff. If there is no registered document that brings out a case of exclusive possession of the respective parties, it will only be appropriate that an adjudication with respect to the ownership of the property is done on merit and the ex-parte order that is already passed is set aside.

2. The two courts below have found that the defendant had the knowledge about the institution of the suit and the decree. I believe that for the indiscretion of the defendant for not entering the contest at appropriate time, the ex-parte decree shall be set aside subject to payment of costs of Rs. 20,000/- to be paid to the plaintiff/respondent, within four weeks from the date of receipt of a copy of this order, failing which the orders already passed shall stand confirmed.

3. The impugned orders are set aside and the revision is allowed subject to the above terms.

4. The parties are directed to appear before the trial court on 2.11.2015.

September 29, 2015
prem

(K.KANNAN)
JUDGE