

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

C.R. No.4004 of 2015

Date of Decision.01.07.2015

Vinod son of Shri Sube Singh

.....Petitioner

Versus

Ramesh and others

.....Respondents

Present: Mr. Arun Singal, 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. A plea in defence taken by the defendant was sought to be projected as a key element that would go for rejection of the plaint itself. The defence was that the plaintiff's father had filed a suit in respect of the very same property and he had withdrawn the case and the son has again filed the case with reference to the same property. There had been no permission for filing a fresh suit and the abandonment of the suit by the father ought to operate against the interest of the plaintiff as well.

2. It is also further contended that there is a prayer for setting aside a sale of the year 2008 and the claim is ex facie barred by limitation and bar of limitation must have been properly considered by the Court below.

3. The bar of limitation relating to execution of sale is not at all times a bare question of law. It is mixed question of fact and law,

for, if sale is purported to be bad on account of some fraud or some other vitiating factors, knowledge of the fraud will be starting point of limitation and that would require evidence to be given. The issue of whether the abandonment of action by the father would constitute a bar for the son also depends on whether the plaintiff claims the property through his father or sets his title independently. If the claim is made independently, it is surely possible for him to institute a suit without being fettered by the action of the father. These are matters which will be considered at the time of trial and no part of my observation shall be taken as settling issues which are brought before the Court on defence taken by the defendant. I do not think there is any issue for intervention at this stage.

4. I decline to make any intervention and dismiss the revision petition.

(K. KANNAN)
JUDGE

July 01, 2015
Pankaj*