

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

Civil Revision No.4145 of 2015

Date of decision: 06.07.2015

Tarlok Singh

... Petitioner

versus

Balkar Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Onkar Singh, Advocate,
for the petitioner.

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. An order of dismissal of a suit ought to be treated as a decree of dismissal. If it is not a rejection, a dismissal is possible only in a circumstance where the rights of parties are concluded. Here in this case, the suit has been dismissed as infructuous holding that an earlier suit brought by the petitioner's brother against him and 3 others was decreed and that the petitioner himself has preferred an appeal against the judgment before the appellate forum. The dismissal as infructuous in the manner in which the petitioner presents his case is on the ground of disposal of earlier suit that takes the bar of the subsequent suit as operating under Section 11 of

the Civil Procedure Code.

2. The petitioner is entitled to treat the dismissal as a wrongful dismissal. It is appealable as a decree and may present as a regular appeal in a proper forum. The revision petition is dismissed as incompetent but with liberty to prosecute the appeal and if such an appeal is filed, the court shall receive the same, number it as a Regular First Appeal and dispose it off after notice in accordance with law. It is reminded that the preparation of a decree is not contemplated even for a first appeal in the amended provision of Order 41 Rule 1 CPC and it is sufficient that the appeal is presented with merely a copy of the order even if a decree is not prepared.

3. Civil revision stands disposed of with the above observations.

(K.KANNAN)
JUDGE

06.07.2015
sanjeev