

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

**CR No.4300 of 2013 (O&M)
Date of decision: 04.12.2015**

Charanjit Kaur @ Anu Sharma

... Petitioner

versus

Rajinder Pal and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Manish Kumar Singla, Advocate for the petitioner.

Mr. Vivek Rattan, Advocate for respondent No.1.

Mr. Munish Jolly, Advocate,
for respondent Nos. 2, 3, 21 and 22.

Mr. Ravi Kumar Gupta, Advocate for respondent No.5.

K.Kannan, J.

The plaintiff who filed a suit on the basis of purchase from the mother on 21.04.1998 claiming the property as obtained by her heir to her father-in-law Gopi Chand wanted to amend the plaint making reference to Will has having been executed by the mother on 31.03.1998. The application was rejected.

I do not think any prejudice could be caused, for, the mother, Sodhan Devi has sold the property on 21.04.1998 and the suit is filed on that basis. A reference to Will makes no meaning, for, transmission of interest through Will can happen only in respect of the estate that was available on her death. If she had herself purported to make a sale before her death, notwithstanding the fact that the sale was subsequent to the Will, the sale which was subsequent to the Will, would prevail, for, the sale operates *eo instante*. The Will will be effective only on the death of the person. The plaintiff will stand or fail by proving the status of Sodhan Devi as the widow of Des Raj, the pre-

deceased son of the propositus Gopi Chand. The reference to Will was needless and if it had not been incorporated in the plaint previously it will not in any way affect the flow of title to the plaintiff, if she can establish the status of Sodhan Devi and the validity of the sale.

I do not think there is a scope for intervention. The civil revision petition is dismissed with above observations.

(K.KANNAN)
JUDGE

04.12.2015
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