

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

CR No.4442 of 2014

Date of Decision:11.12.2015

Navrattan

.....Petitioner

Vs.

Smt. Sarjo and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

Present:- Mr. Bhupender Singh, Advocate for the petitioner.

Mr. Harkesh Manuja, Advocate for respondent No.2.

K. KANNAN, J.(Oral)

The revision petition is against an order dismissing the application for rejection of the plaint brought by the defendant in a suit for declaration and for recovery of possession of half share. The plaintiff claimed a half share as legal heir of Maha Singh, the other half share having already ceded to the defendant/petitioner by virtue of previous civil court proceedings which have become final. The present half share is only with reference to the property which is still subject of adjudication before this Court in RSA No.1764 of 2006. The second appeal will address the issue of whether the decree suffered by Maha Singh on 26.11.1992 in favour of the fourth respondent is valid or not. If it is not valid and it must be taken that Maha Singh died possessed of half share, the claim of the present plaintiffs as legal heirs would require to be considered in the context of an objection taken by the defendant- petitioner that Maha Singh has executed the Will in his favour. The adjudication would become relevant if the decision of the High Court finds that Maha Singh died possessed of half share at his death.

The instant suit is laid on proper basis and there is no scope for rejection of the plaint.

The counsel has other objections regarding the adequacy of court fee for the relief of recovery of possession and for mesne profits. Counsel for the respondent states that there has been no objection before the trial Court in that regard. I cannot, therefore, examine the said issue and it will be open for the Court to invite parties to argue on the adequacy of court fee and take independent decision thereon. The revision petition is dismissed but with observations made above.

December 11, 2015
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(K.KANNAN)
JUDGE