IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.4562 of 2014 (O&M)
Date of decision: 29.07.2015

Ram Singh and others ... Petitioners

versus

Ramesh Chand and others .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Bharat Bhushan Azad, Advocate,
for the petitioners.

Mr. S.S. Walia, Advocate,
for respondents 1 to 9 and 12 to 19.

---

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. In a course of trial in a suit for declaration, the plaintiff sought for additional issues to be framed. This is on an affirmation by the plaintiff that the defendants have brought about production in revenue entries by fraud, incorporating themselves as descendants of one Bishna or mere impostors that the entries are erroneous. There is already an issue No.2 which is framed thus:-

> "Whether the mutation numbers 3190, 3191, 3182, 3199, 3200, 3214 are based on fraud and misrepresentation and are liable to be set aside? OPP"

SANJEEV KUMAR
2015.07.30 16:49
I attest to the accuracy and
integrity of this document

2. Apart from this issue, the counsel would want the specific issue to be framed on a plea taken by the defendant that they are the descendants of Bishna and they are even willing to have a blood test done and their paternity proved. An offer by the defendants to subject themselves to certain examinations does not immediately make it relevant to frame an issue whether the plea in defence of a claim to paternity in the manner canvassed by them is correct and that there shall be an issue therefor. To my mind, it is wholly irrelevant that the defendants take a plea regarding their paternity and justify the entry. In a suit for declaration claiming right to the property under a sale for 2/3rd share and a claim to 1/3rd share through the plaintiff's ancestor, the plaintiff will succeed or lose by his own pleadings. The plaintiff cannot pick holes in the defence or force an adjudication for what they are defending by casting an issue and placing the burden on the defendants.

3. There is no modification necessary and the plaintiff is competent to state as evidence requisite for disposing of issue No.2 that the defendants' names could not have been brought in the revenue entry as successors to Bishna. The more crucial answer that the court will find while answering the issue is whether the plaintiff has a locus standi to force such an adjudication. The court will decide on whether the plaintiff could have such an entry drawn in his own name in any manner that the law would provide and that the

SANJEEV KUMAR
2015.07.30 16:49
I attest to the accuracy and
integrity of this document

entry made in the name of the defendants was not competent. The defendant will have an option to justify the entry by offering positive evidence by proving their ancestry to Bishna.

4. I do not find any error in the order impugned for being brought for challenge in revision. Revision petition is dismissed but with the above observations relating to how issue No.2 could be dealt with.

(K.KANNAN)
JUDGE

29.07.2015
sanjeev

SANJEEV KUMAR
2015.07.30 16:49
I attest to the accuracy and
integrity of this document