

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

C.R. No.6632 of 2015 (O&M)

Date of Decision.04.11.2015

Krishan and another

.....Petitioners

Versus

Union of India and others

.....Respondents

Present: Mr. Manoj Makkar, Advocate
for the petitioners.

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. The application for preponing the case is filed in C.M. No.22858-CII of 2015 after notice of motion had been issued for 19.01.2016. I prepone the case considering the fact that the case is said to be set for evidence and the petitioners are aggrieved that the order passed in the revision petition itself will become infructuous by then. I directed the counsel to argue the case on merits for consideration in revision. I have considered the case and proceeded to pass the following order.

2. The plaintiffs filed a suit for declaration and injunction contending that the property had stood transferred as unallotted evacuee property by the Central Government to the State Government and the State Government in turn had sold the property in favour of the plaintiff. The contention taken in defence was that the sale which was made by the Tehsildar was set aside by the Joint Secretary-cum-

Settlement Commissioner by his order dated 14.11.1996 and that the appeal filed against that order before the Financial Commissioner was also dismissed. The suit reported to have been filed by the plaintiffs for permanent injunction was dismissed on 10.09.1990 and therefore, suit has again been filed contending that the cancellation made by the Settlement Commissioner was not competent. The Court has framed an issue placing the burden of proof on the plaintiff to show that the Chief Settlement Commissioner had no jurisdiction to set aside the order. The plaintiffs now want to contend that the Court must frame issue placing the burden of proof on the defendant to show that the State of Haryana had no authority to sell the land to the plaintiff. No such issue need be framed, for in suit for declaration claiming right to the property under a transfer made by the State which was set aside by the authorities would not require to be shown by the defendant to be competent. On the other hand, the Court has framed the correct issue that the plaintiff will prove that the Chief Settlement Commissioner did not have jurisdiction to pass the order. The issue framed already is correct and there is no justification for making an interference in the revision petition.

3. The revision petition is dismissed.

(K. KANNAN)
JUDGE

November 04, 2015
Pankaj*