

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

C.R. No.987 of 2012

Date of Decision.10.03.2015

Reshma

.....Petitioner

Versus

Siri Chand and others

.....Respondents

Present: Ms. Meenakshi Poswal, Advocate
for the petitioner.

None for the respondents.

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 revision petition is against the order of rejection of plaint made on an application filed by the defendant in suit. The plaintiff, who is the petitioner before this Court, sought for a contention that the property was purchased by the petitioner in his sister's husband's name who was the defendant. The first defendant having purchased the property attempted to sell the property to the 2nd defendant and that was when the suit for declaration was sought. The application for rejection was sought on the ground that the suit for declaration that it is a benami property was barred under Section 4 of the said Act. The trial Court and the Appellate Court agreed to such a contention. I will find no error for intervention, for, the defence which was allowed was barred in the law is a ground which can be taken by a party through an application under Order 7 Rule 11.

2. The petitioner's reliance before this Court was a compromise agreement between the petitioner's husband and the 1st defendant. This compromise also cannot help the petitioner, for, as per the terms, the petitioner's husband has admitted himself to be a tenant under the 1st defendant and he has offered to pay ₹ 1,10,000/- and take sale deed in his name. Instead of taking a sale deed which could have been enforced if it was not complied with by the 1st defendant, the petitioner's husband appears to have set up the petitioner to institute the suit claiming benami rights and contending that the 1st defendant himself is not the owner and that she is the owner. Such a contention also will be impermissible even as per the compromise agreement. More than helping the petitioner, the compromise agreement itself shows really the motivation for the suit to get over the terms of the document which admitted the 1st defendant as the owner, where the petitioner's husband was a party to such an agreement.

3. There is no scope for intervention. The revision petition is dismissed.

(K. KANNAN)
JUDGE

March 10, 2015
Pankaj*