

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

RSA No.3713 of 2013 (O&M)

Date of Decision.29.10.2015

Mohinder Kaur

.....Appellant

Versus

Manjeet Singh and others

.....Respondents

Present: Mr. Ashwani Talwar, Advocate
for the appellant.

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 plaintiff's suit for declaration and injunction was with reference to property in khasra No.451 described as situate in South of a street and West of property of Tripta Kapoor measuring 45'x70'. The principal contest taken by the 3rd defendant was that the property was not even properly described. His contention was that the property was situate in khasra No.458 and that the revenue entry stood in his name and produced document from the year 1955-1956. He also contested that he had filed the suit against plaintiff's vendor in the year 2005 and had obtained also a decree.

2. It would appear that the plaintiff had filed an application for impleadment in the suit filed by the 3rd defendant against his vendor but his application was dismissed. The intervention sought before this Court also failed but this Court had directed a joint trial of the case.

However, the joint trial of the two suits was not done and the 3rd

defendant obtained an independent decree in the suit filed by him against the plaintiff's vendor. The plaintiff wanted to contend that his vendor's title to the property was established by the fact that the vendor had purchased the property from one Pushpa on 09.07.1998 and 20.05.1998 and Pushpa in turn had earlier obtained this property by virtue of decree on 11.10.1995. The plaintiff would also make reference to the jamabandi for the property in the year 2003-2004 as making reference to his vendor.

3. At the trial, there was an attempt at establishing the identity of property by appointment of local commissioner. The local commissioner found that the property was situate only in khasra No.458 and not khasra No.451 as stated by the plaintiff. Referring to the plaintiff's own purchase as comprised in Khasra No.451, the Court proceeded to examine the documents filed by the defendant and observed that he was attempting to source his title through an earlier transaction dated 8.2.1979 and still earlier revenue entries for the property from the year 1955-56 to 1993-94 stood in the name of the defendants and his predecessor. The plaintiff's claim to title failed by his inability to prove not merely the particular identical khasra number for which he was litigating but also in his inability to prove that vendor was the owner of the property. If the plaintiff had not been vigilant and had allowed for the disposal of the case instituted against his vendor independently without a joint trial in the manner directed by this Court, I cannot find the plaintiff's own lapse to his advantage and make an intervention only for the fact that the two suits must have been disposed of together.

4. The plaintiff's case suffers from a fundamental vice of his inability to identify the property as comprised in Khasra No.451 and his inability to prove the plaintiff's vendor's title to the property. On the other hand, the 3rd defendant had actually secured even decree against the plaintiff's own vendor and if the identity of the property had also been shown as distinct and the property was really in khasra No.458, the dismissal of the suit by the two Courts below cannot be faulted.
5. I find no substantial question of law as arising in second appeal for intervention. The second appeal is dismissed.

(K. KANNAN)
JUDGE

October 29, 2015
Pankaj*