

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

Regular Second Appeal No.400 of 2013 (O&M)

Date of decision: 11.08.2015

Satnam Singh and others

... Appellants

versus

Amarjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Navdeep Kalair, Advocate,
for Mr. Tushar Sharma, Advocate,
for the appellants.

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)

CM Nos.1120 and 1121-C of 2013

For the reasons stated in the applications, delay in re-filing and filing of the appeal is condoned.

Applications stand disposed of.

Regular Second Appeal No.400 of 2013

1. The plaintiff sought for a half share in the property conveyed by the father to his brother who was the defendant. His contention was that the property had been proved to be a joint family property after the decision of the Supreme Court and the father had

no right of sale of the property including his share. The defence was that the father had sold the property to the son of his pre-deceased son to meet the medical expenses. The mother also gave evidence in support of the defendant to say that the father was compelled to effect the sale only for discharge of debt which had to be contacted for medical expenses. The court found that the plaintiff's share cannot be sold and could not be effected and provided for a half share in the property. The appellate Court modified it to 1/3rd share and the defendant is in appeal before this court.

2. I do not think the defendant can treat himself as aggrieved by a judgment especially when the father is not alive and the court has not granted to him the share which would have been possible in respect of his father's share which ought to have been divided between the widow and sons again. The court has provided only for a 1/3rd share, which was even less than what perhaps he was entitled to. This observation is only for dismissal of the second appeal as without merit and will not give to any right to the plaintiff, if he does not challenge the decision in second appeal. Second appeal is dismissed as without merit.

(K.KANNAN)
JUDGE

11.08.2015
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