

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

RSA No.1192 of 2015 (O&M)
Date of Decision.21.09.2015

Gurdeep

.....Appellant

Versus

Smt. Kamla Devi and others

.....Respondents

Present: Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, 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 mother of the plaintiffs had faced a litigation at the instance of a person who had claimed the property in exchange and stating that the property of equal extent had been granted to the mother and her children. The property involved was an extent of 7 kanals 9 marlas of land. That decree was passed by the Court when the mother applied to the Court for permission to enter into a compromise and a decree was passed after permission from the Court under Order 32 Rule 7 CPC.

2. The suit was filed by one of the sons claiming that the mother's compromise will not bind him, since the permission was not taken under Section 8 of the Hindu Minority and Guardianship Act. The suit itself was incompetent. Such an application will arise only if the mother had sought for permission before exchange that involved an

alienation of minor's interest in the property. On the other hand, if a person claiming under oral exchange that is permissible in the State of Punjab, if a suit had been instituted by some person claiming under exchange. It will be only the Court before which the case was pending, that can grant sanction and such a Court need not wait a sanction to be granted by the District Court before it passed the order. There is an inbuilt provision under the Civil Procedure Code allowing for the Court before which the case is pending to apply its discretion and then grant permission if it was in the interest of minor and there was no prejudice caused. The trial Court that passed such a decree allowing for property to be exchanged cannot be reopened at the instance of the son to state that no permission from the District Court was obtained. I find no error in the judgment passed by the lower Appellate Court and maintain the same.

3. The second appeal is dismissed as devoid of merit.

(K. KANNAN)
JUDGE

September 21, 2015
Pankaj*