

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

Regular Second Appeal No.2553 of 2015 (O&M)
Date of decision:13.10.2015

Wassan Singh

... Appellant

versus

Jarnail Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Malkeet Singh, Advocate,
for the appellant.

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 No.12972-C of 2015

For the reasons stated in the application, the same is allowed and the appeal is restored to file and taken up for hearing today itself.

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The plaintiff, who filed the suit only on the basis of a compromise decree where the father had suffered a statement that the property will be held by the father and sons equally, failed to establish by averment in the plaint and prove that the property was ancestral in character. An absolute right in the property cannot be

transferred otherwise than in accordance with the provisions of Transfer of Property Act and Registration Act. A person cannot effect a transfer of immovable property by a mere statement in court unless the defendants had a pre-existing right in the property such as when the property was ancestral or belonged to the joint family. If the plaintiff was only relying on his own father's statement and would bring no proof for the property as belonging ancestrally or to the family, a declaratory action cannot survive for favourable consideration for the plaintiff. It would appear that the father himself had declared that the son shall have no interest in the property in a paper publication. The plaintiff in such a situation ought to have proved that the father had no right to make such a declaration and that he had independent right by the character of property as belonging to the family. If that right was not available, the courts below were justified in dismissing the plaintiff's suit. I find nothing in favour of the appellant to admit on a substantial question. The second appeal is dismissed.

(K.KANNAN)
JUDGE

13.10.2015
sanjeev