

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

RSA No. 2688 of 2015 (O&M)
Date of decision: December 1, 2015

Harish Chander

...Appellant

Versus

Jai Bhagwan and others

...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?**

Present: Mr. Atul Yadav, Advocate,
for the appellant.

K. KANNAN, J. (Oral)

1. The plea brought by the defendant/appellant before the trial court was that the father had granted half share in the house in recognition of the act of the defendant in discharging the loan contracted by the father, while the other three brothers were not willing to contribute. The father was reported to have given in writing the son would enjoy half share in the property and put him in possession. After his death in the year 1990, there had been dispute between the parties and it was claimed by the plaintiffs that the plaintiffs and the defendant had been granted one portion of the property, while Munshi Ram and Bhim Singh had been granted another portion. Bhim Singh had gone away from the village and Bhim Singh's

right in the property was exchanged with the defendant and the defendant had only the right which Bhim Singh had and his own portion of what was secured under the dispute had been handed over to Bhim Singh.

2. The defendant pleaded for half share in the property as representing his portion and traced his right to the document executed by the father on 26.3.1984 when a specific half share was handed over to him under the circumstances referred to above. The point that was required to be considered was the legal effect of such a transaction where the father was giving up during his life time a half portion in recognition of a meritorious act of discharge of loan contracted by him which the other sons were not prepared to do. The legal effect of such a transaction would only be that no right would operate to create, declare, assign, limit or extinguish whether in past, present and future could be effective, unless the document is registered in the manner contemplated under Section 17 of the Registration Act. A mere declaration by the father that he was giving a specific portion to his son cannot eclipse with the requirement of registration. A defence was that such a document could not have been given any legal weighage and the court, while granting relief in favour of the plaintiffs, has discounted correctly the legal effect of such a document.

3. The issue involved is not whether the document dated 26.3.1984 was genuine. The issue was, whether it was valid or effective to operate to create interest in the property. If the defendant himself did not have any pre-existing right over the property during life time of the father, there could be no transfer by an unregistered instrument. The decree granted

in favour of the plaintiff would, under the circumstances, require no intervention and the second appeal is dismissed as being without merit.

December 1, 2015
prem

(K.KANNAN)
JUDGE