

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

RSA No.3729 of 2015

Date of Decision.10.08.2015

Gurmeet Singh (deceased) through LRs

.....Appellant

Versus

Nirmal Singh (deceased) through LRs and others

.....Respondents

Present: Mr. Sukhbir Singh, 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. There is no scope for intervention with an order passed by the Appellate Court remanding the matter for fresh consideration in a suit for partition. There had been a preliminary decree for 1/4th share of the plaintiff and application for passing of final decree had been allowed. There had been also appointment of local commissioner to identify the properties and suggest more sub divisions. The Appellate Court has found that the division as suggested was not properly done and it has directed the matter to be decided afresh.

2. The counsel appearing on behalf of the appellant-defendant would contend that the plaintiff was trying to substitute the property which was not there already in the suit. I clarify that the final decree will be passed only if the reference to property is already in suit and no property can be substituted if there is ever going to be a contention that the property was not identified or described in the original decree.

Unless there is an amendment made to the description, the Court will not substitute the said item and then make subsequent suggestion for division by means of final decree without reference to what is contained already in the preliminary decree.

3. With this clarification, the second appeal is dismissed.

(K. KANNAN)
JUDGE

August 10, 2015
Pankaj*