

**C.M. NO.10163 C OF 2015 &
R.S.A. NO.4197 OF 2015**

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

DATE OF DECISION: SEPTEMBER 16, 2015

Dharam Singh

.....Appellant

VERSUS

Nathi Ram

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr.Parminder Singh, Advocate,
for the appellant.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgments and decree passed by the Courts below, whereby the suit for partition with consequential relief of permanent injunction qua the property, which has been mentioned in the head note, stands dismissed by the Civil Judge (Junior Division), Karnal on 22.02.2012 and the appeal preferred against the same was also dismissed by the Additional District Judge, Karnal, on 09.07.2015.

It is the contention of learned counsel for the appellant that the judgments and decree passed by the Courts below cannot sustain as the appellant-plaintiff and the respondent are the only legal heirs and, therefore, it being a joint Hindu family property, the same should have been ordered to be partitioned. He, therefore, prays that the present appeal may be allowed

and the judgments and decree passed by the Courts below be set-aside.

I have considered the submissions made by counsel for the appellant-plaintiff and have gone through the judgments passed by the Courts below.

As is apparent from the judgments, the appellant-plaintiff did not appear in the witness box and one Zile Singh has deposed as a special power of attorney. It has rightly been observed that a power of attorney holder can depose in his individual capacity regarding the facts, which were to his personal knowledge. The respondent has produced judgments to show that Zile Singh has been in litigation with respondent-defendant, Nathi Ram, which suits have been dismissed by the Courts. There is no document on record, which would show that the appellant-plaintiff had any share or interest in the suit property nor he has filed any pedigree table showing that the appellant-plaintiff and the respondent-defendant were the only legal heirs. Nathi Ram, respondent-defendant, is in possession of the property and, therefore, the Courts have rightly proceeded to decide the case on the basis of evidence led by the parties.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

**September 16, 2015
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**(AUGUSTINE GEORGE MASIH)
JUDGE**