

114.

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

Civil Revision No.1417 of 2016

Date of decision: 25.02.2016

Harmesh Kumar

... Petitioner

versus

Tarsem Lal and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Parveen Kumar Garg, Advocate,
for the petitioner.

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)

1. Revision is a wasteful time on the part of the defendant in setting up a family arrangement subsequent to an agreement of sale executed by the father. The suit is filed by the brother of the defendant on an agreement of sale dated 02.06.2010. The son of the defendant has set up a family arrangement subsequent to the agreement as giving him a right through such family arrangement dated 07.08.2011 to intervene in the suit for specific performance. The contention is that the property is ancestral having been inherited from the father and, therefore, the agreement made by the father

without setting up any necessity for the sale cannot be specifically enforced.

2. Each one of the contentions is untenable. A property inherited by the plaintiff and the defendant from the father cannot be ancestral unless treat it as such, for, a property succeeded under the Hindu Succession Act is separate property in the hands of the heirs and not ancestral. If there was also an agreement of sale executed by the father even before the so-called family settlement, the plaintiff cannot be bound by such a transaction to require an impleadment of the defendant's son. The timing of the application is equally relevant as the court below has observed that the application for impleadment was made by the son who was residing along with his father when the plaintiff's side had been closed and the defendant had also concluded. The revision is vexatious and it is dismissed.

3. The counsel wants the revision to withdraw. All these observations which I have made will remain.

4. Dismissed as withdrawn.

(K.KANNAN)
JUDGE

25.02.2016
sanjeev