

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

C.R. No.1532 of 2016

Date of Decision.03.03.2016

Sunita @ Achki

.....Petitioner

Vs.

Sher Pal and others

.....Respondents

Present: Mr. S.N. Gaur, Advocate
for the petitioner.
Mr. Madan Gupta, Advocate
for the caveators-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?

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K. KANNAN J. (ORAL)

1. The petitioner-Sunita filed an objection contending that she was not properly represented through her mother and the decree for specific performance is erroneous. Further it is also the contention that she has sold the property to one Ran Singh and Ran Singh had also given objections. Both her objections as well as the objection of Ran Singh had been declined.

2. If there was a plea that the mother had not protected her interest in the property when she was minor, it was the duty of the quondam minor to point to any particular legal evidence which was possible which the mother did not have and there had been gross negligence of the mother that resulted in a decision against her. The counsel for the petitioner could not assist me with the details of the nature of contentions raised but the counsel appearing on behalf of the caveator-respondent points out that the petitioner herself was party to

the proceeding and she had preferred even an appeal through her mother before this Court in RSA No.5123 of 2011. If the case has also been prosecuted by her mother before this Court by engaging a counsel and notice was served on the other side and decision was rendered on merits on 18.03.2014, there surely exists nothing to show that the mother had been negligent in conducting the proceedings. It would appear that even against the judgment passed by this Court, further appeal was taken before the Supreme Court and that was also dismissed. The plea of negligence cannot be made in such a situation.

3. If the contention that she had sold the property to one Ran Singh and his objection was dismissed, it is not a matter which can be pleaded by the present petitioner. If there was any objection can be brought at the instance of the third party purchaser, it will be done indepenently. I must observe, however, that if sale in favour of Ran Singh had been during the pendency of suit, it will be hit by lis pendes and objection brought at the instance of such purchaser will be barred by the provisions of Order 21 Rule 102 CPC. In any event, the objection sought to be made at the instance of the petitioner was without merit and correctly dismissed by the Court below.

3. There is no scope for interference. The revision petition is dismissed.

(K. KANNAN)
JUDGE

March 03, 2016
Pankaj*