

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

CR No. 1912 of 2015 (O&M)

Date of decision: 02.032016

Resham Singh and another

... Petitioners

versus

Mehar Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Ms. Rupinder Kaur Thind, Advocate, for the petitioners.

Mr. Atul Lakhanpal, Senior Advocate with

Mr. Jagmeet Singh, Advocate for the respondents.

K.Kannan, J. (ORAL)

The document of the year 1983 executed in favour of defendant Nos. 1 to 4 is attacked through a suit filed in the year 2011. Two of the purchasers were in foreign country and had not been served and the principal contest is entered by one of the purchasers who is the brother of the petitioners. He seems to have given evidence as DW1. Defendant Nos. 1 to 4 are reported to have made a statement that they have released the property in such a way that defendant Nos. 4 & 8 are the owners of the property.

Since, the defendants had not been admittedly served with notices and services are done through publication, the Court was justified in setting aside the ex-parte order but, having regard to the

nature of the case relating to the claim to immovable property, I will afford the contesting applicants, the opportunity, to bring their evidence and also examine any witness whom they propose to examine. The Court is at liberty to fix the time frame before when the same will be done. Even while observing that the defendants who have the opportunity to let in evidence, I must say that contesting 4th defendant has no interest adverse to the petitioners and indeed a joint purchaser. The petitioners ought to have surely known about the pendency of the case and if they had arrived at the fag end of the trial when it was posted for rebuttal, I shall impose cost of Rs. 25,000/-to be paid to the plaintiff as a condition for availing to themselves an opportunity of giving evidence. This opportunity shall not enable the petitioners to recall the witnesses examined by the plaintiff already.

The order passed is modified and the liberty is given to the present petitioners to let in evidence of their contention and for examination of any witness whom they want to bring. I leave it to the liberty of the Court to set time frame for conclusion of the proceedings.

The revision petition is allowed on the above terms.

(K.KANNAN)
JUDGE

02.03.2016

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