

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

C.R. No.2177 of 2016 (O&M)

Date of Decision.05.04.2016

Jan Pal Singh

.....Petitioner

Vs.

Leela Devi and others

.....Respondents

Present: Mr. Aakash Singla, Advocate
for the petitioner.

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 2nd defendant-father who was arrayed with his own purchaser in suit instituted by the sons challenging the sale executed by the father had remained ex parte but he was cited as witness on the side of the sons as PW2. He has also given his evidence and at the stage of rebuttal when the plaintiff was already given opportunity to give such evidence in rebuttal, the 2nd defendant has sought for transposition as a plaintiff. It shall not be permitted, for if the plaintiff was challenging the defendant's sale and the defendant had himself not challenged it by any independent action at appropriate time, he will not be permitted to join the proceedings as among the plaintiffs. The claim of the sons challenging the sale is on different footing than the challenge which the father himself could challenge. While the sons will be entitled to challenge the transaction by the father as not binding on them and pointing out to any feature that will show that the sale was not effected

for necessity or other benefit to the family, the father will not be able to join such an action even if necessity or bona fide is not proved. He will be bound by his own transaction and if his contention was that the sale was vitiated by any circumstance, it should be brought within period of limitation in the manner known to law at his own instance. He cannot join the suit along with the sons as co-plaintiff and contend for position that the sale will not also bind him. Such a contention is unavailable to the 2nd defendant father and petition for transposition as sought for cannot yield any benefit to him.

2. The order dismissing the application was, therefore, perfectly justified and I find no reason to interfere with the same. The revision petition is dismissed.

(K. KANNAN)
JUDGE

April 05, 2016
Pankaj*