

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

C.R. No.2638 of 2016

Date of Decision.12.04.2016

Gurmej Singh

.....Petitioner

Vs.

Sanpreet Kaur and another

.....Respondents

Present: Mr. Amit Kumar Chawla, 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 revision petition is against the order dismissing an application for injunction by the trial Court as affirmed by the Appellate Court. The plaintiff's suit was on the basis that his father Lal Singh was not the absolute owner of the property but it was a coparcenary property in which the plaintiff had a right by birth. The father was purported to have executed a Will in the year 1998 treating the property as separate property and the defendant Nos.1 and 2 who were the grand daughters through the pre-deceased son and the widow had obtained mutation pursuant to the Will in their favour. The 2nd defendant subsequently has made release of the property in favour of the 1st defendant. To a contention raised by the plaintiff that the father Lal Singh had disposed of some ancestral property in Muktsar and had purchased the property in suit, the plaintiff had given no proof through documentary evidence and the Court had observed that except a bald

allegation that the ancestral property was sold, there was no proof that the property was ancestral in character. It is fundamental principle in law that while a normal incident of Hindu family is joint, there is no presumption that joint family possesses joint family property. The plaintiff who is seeking for injunction against beneficiaries under a Will on the ground that the executant of Will had no capacity to execute the same including his pre-existing interest is bound to prove ancestral property character and his own right by birth. The Will had taken effect in the year 1998 and mutation had also taken place in the year 2000. The suit came to be instituted nearly 15 years later. The Court found that there was no prima facie case to grant injunction and declined the same.

2. The orders passed by the Courts below are well reasoned and would not require any intervention in the revision petition. The revision petition is dismissed.

(K. KANNAN)
JUDGE

April 12, 2016
Pankaj*