

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

C.R. No.2559 of 2012

Date of Decision.16.03.2016

Jagbir Singh

.....Petitioner

Vs.

Jagsharan Singh and others

.....Respondents

Present: Mr. Karanjit Singh, Advocate
for the petitioner.

Mr. Premjit Kalia, Advocate
for the 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 nature of proceedings before the Court below are not understandable but to the best of my ability, the manner in which the case could be understood on the basis of arguments made is as follows.

2. In suit for recovery of possession where the decree was passed, the decree holder put the decree in execution. A third party objected to the delivery under Order 21 Rule 97 CPC. The Court rejected the objection and directed the delivery to be given. The judgment debtor preferred an appeal. I cannot understand as to how the judgment debtor preferred an appeal, for any objection by judgment debtor cannot be entertained and there is no scope for preferring an appeal. However, if the appeal were to be treated as competent then while dismissing the appeal, the Appellate Court has

provided for ₹100/- costs to be paid for every day from the year 1998.

In suit for recovery of possession where possession was sought and there was no decree for mesne profits, the Appellate Court exercising jurisdiction against delivery granted by the Executing Court has no power to impose costs @ ₹100/- per day from the year 1998 that aggregates to a few lacs. Such power cannot be sourced to any provision of the Civil Procedure Code.

3. The direction is erroneous and it is set aside. The civil revision petition is allowed.

**(K. KANNAN)
JUDGE**

March 16, 2016
Pankaj*