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

CR-2860-2014

Date of decision : 16.03.2016

Davinder Kaur

...Petitioner

Versus

Pawanjit Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Anil Chawla, Advocate
for the petitioner.

Mr. Sudeep Mahajan, Advocate
for respondent No.1.

Mr. Piyush Bansal, DAG, Punjab.

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?

AMIT RAWAL, J. (ORAL)

The petitioner-decree holder is aggrieved of the impugned order dated 17.10.2013, whereby the objection filed by the respondent/judgment debtor No.1 has been accepted.

Mr. Anil Chawla, learned counsel appearing on behalf of the petitioner-decree holder submits that in a suit for declaration and permanent injunction, judgment and decree dated 27.04.2002 came to be passed. It has been mentioned that Baldev Singh, who died on 20.03.1990, had two wives, namely, Davinder Kaur (petitioner) and Pawanjit Kaur-respondent No.1 and

they would not only be entitled to get share, but the children born out from the loins of Baldev Singh with Davinder Kaur and Pawanjit Kaur will also be entitled. It is matter of record that Davinder Kaur had one son, namely, Kamaljit Singh and daughter, namely, Amandeep Kaur. After the death of Baldev Singh, Amandeep Kaur had been adopted by Amarjit Singh vide registered Adoption Deed dated 20.02.1996 and son of Baldev Singh, namely, Kamaljit Singh had already died. In these circumstances, the judgment debtor filed an objection petition claiming half share instead of $1/4^{\text{th}}$ share, whereas the share of the son would go to Davinder Kaur and Amandeep Kaur would have a right, even as a minor and therefore, the impugned order accepting the objections is not sustainable. As regards the objections, viz-a-viz the recovery of the Retiral and Ex-gratia benefits of the deceased, the trial Court has directed judgment debtor No.2 i.e. Punjab Police Department to recover the excess amount from the salary of the petitioner-decree holder-Davinder Kaur, who is working as Lady Constable. The aforementioned findings are incorrect and not sustainable, thus, prays for setting aside the impugned order.

Mr. Mahajan, learned counsel appearing on behalf of the respondent/judgment-debtor No.1 submits that since Amandeep Kaur had been adopted in the year 1996, her share extinguished and the share of the son, namely, Kamaljit Singh would go to Davinder Kaur. Manpreet Kaur daughter of Pawanjit Kaur, is entitled to more than $1/4^{\text{th}}$ share instead of $1/4$ share only. There is no illegality and perversity in the impugned order and prays for dismissal of the revision petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the order of the Objecting Court granting

half ($\frac{1}{2}$) share in favour of Manpreet Kaur daughter of Pawanjit Kaur, is not sustainable as $\frac{1}{4}$ th share of the son, namely, Kamaljit Singh would go to Davinder Kaur, being the Class I heir. As regards the share of Amandeep Kaur is concerned, who has been adopted in the year 1996, the judgement and decree did not contain such element of adoption as it accorded her $\frac{1}{4}$ th share. In case, the objectors are aggrieved, they are at liberty to move an application seeking modification of the judgment and decree dated 27.04.2002.

As regards the remaining part of the order, I am in agreement with the findings rendered by the trial Court for the reason that the petitioner has drawn the excess amount than her share and rightly so, has been ordered to recover the excessive amount given to the petitioner-decree holder-Davinder Kaur, who is working as Lady Constable and give the liberty to the judgment debtor to seek the attachment by way of filing recovery suit or attachment of her property.

With the aforesaid observations, the revision petition is allowed in part. The order granting one half share to the respondent/judgment debtor No.1, is set aside and the impugned order allowing the recovery of the excess amount to the salary of petitioner-decree holder and giving the liberty to the judgment debtor to seek the attachment is affirmed.

16.03.2016
yogesh

(AMIT RAWAL)
JUDGE