

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

RSA No.905 of 2011 (O&M)

Date of decision : 17.03.2016

Sanjeev Kumar

...Appellant

Versus

Ram Kumar and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. H.K. Brinda, Advocate for the appellant.

Mr. Aditya Dassaur, Advocate for
Mr. C.L. Verma, Advocate for respondent Nos.1 and 2.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is aggrieved of the concurrent findings of fact, whereby suit claiming declaration with consequential relief of permanent injunction that he is adopted son of Mool Raj, much less, Mool Raj had any property or not, has been dismissed.

Mr. H.K. Brinda, learned counsel appearing on behalf of the appellant submits that suit was filed through guardian. On attaining majority in the year 1997, appellant was permitted to contest the suit but the trial Court erroneously dismissed the suit in 1998. In appeal, application under

Order 41 Rule 27 filed, was allowed and the matter was remitted back to the trial Court. The aforementioned order was challenged in SAO & this Court vide order dated 31.08.2010 allowed the appeal and directed the lower Appellate Court to decide the appeal fresh. Again application under order 41 Rule 27 was filed to place on record the Will allegedly executed by father of Mool Raj to show that Mool Raj had acquired the right, title and interest in the property but the same has also been dismissed. It is in these circumstances, the present appeal has been filed. He submits that additional evidence sought to be brought on record is necessary and essential for the adjudication of the appeal. The lower Appellate Court has assigned no reasons, much less, cogent reasons in dismissing the suit, thus, urges this Court to formulate substantial questions of law.

Mr. Aditya Dassaur, Advocate for Mr. C.L. Verma, Advocate for respondent Nos.1 and 2 submits that during the pendency of the suit, appellant-plaintiff moved an application. At that relevant point of time, he had an opportunity to bring on record additional evidence. There is no compliance of provision of expression namely “despite exercise of due diligence”, much less, pleadings are wanting. There is no illegality and perversity in the impugned judgment and decree.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit in the appeal. The additional evidence sought to be placed on record if allowed in the absence of the pleadings, same would tantamount to denovo of trial which cannot be permitted at this stage to unsettle matter which has been already settled.

Once this Court had already set aside the findings rendered by the lower

Appellate Court, no occasion arose for the appellant to file second application for additional evidence. Having failed to do so, I am of the view attempt is to fill up the lacuna in evidence which is not permissible at this stage.

Accordingly, no ground is made out for interference, much less, no substantial question of law arises for determination.

Dismissed.

17.03.2016

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**(AMIT RAWAL)
JUDGE**