

Same Singh Vs. Narain Singh and Others

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Court : Punjab and Haryana

Decided On : Feb-13-2014

Appellant : Same Singh

Respondent : Narain Singh and Others

Judgement :

CR No.1156 of 2014 :1: IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH Civil Revision No.1156 of 2014 Date of Decision : 13.02.2014 Same SinghPetitioner(s) Versus Narain Singh and othersRespondent(s) CORAM: HON'BLE Mr.JUSTICE RAJIV NARAIN RAINA Present: Mr.Kulvir Narwal, Advocate, for the petitioner(s).***** 1.

To be referred to the Reporters or not?.

2.

Whether the judgment should be reported in the Digest?.

***** RAJIV NARAIN RAINA, J.

(Oral) The petitioner is before the Commissioner against an order passed by the Collector claiming that he was not served informing him of the partition proceedings.

In fact, 9 defendants were proceeded against ex parte without proper service of summons on them or of them being informed of the proceedings.

In the appeal against the order of the trial court passed under order 39 rule 1-2 CPC, the learned Additional District Judge, Jhajjar has dismissed the appeal but has given liberty to the petitioner to move afresh appropriate representation before learned trial court challenging the documents produced before this court.

Kumar Paritosh 2014.02.18 10:16 I attest to the accuracy and integrity of this document CR No.1156 of 2014 :2: Mr.Narwal submits that the proper couRs.for learned Additional District Judge, Jhajjar was to have remanded the case to the trial court for fresh consideration of the documents produced before it and not to have dismissed the appeal and at the same time granted liberty since this procedure followed in final decision making is not in accordance with law.

The argument appeals to this Court as of merit and instead of issuing notice to the other side to hear them and delay proceedings, I would issue appropriate directions for unencumbered revisit on the said document as no prejudice would be caused to the opposite party, in view of the substantive directions given to the trial court by the Additional District Judge, Jhajjar himself while dismissing the appeal as being devoid of merit.

It is resultantly ordered that the impugned order now be read as a remand order for fresh decision by the trial court on the remand directions.

Since the trial court would be examining the issue de novo, nothing said in the impugned appeal court order dated 17.9.2013 will be taken as an expression of opinion by the learned Additional District Judge, Jhajjar on the merits of the case in remand.

With these directions, the petition stands disposed of.

(RAJIV NARAIN RAINA) JUDGE February 13, 2014 Paritosh Kumar Kumar Paritosh 2014.02.18 10:16 I attest to the accuracy and integrity of this document

