

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.1337 of 2015
Date of decision: 25.02.2015

Gurcharan Kaur

....Petitioner

Versus

Smt. Bhagwan Kaur (since deceased) through her L.Rs. and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Paramjit Singh Jammu, Advocate for the petitioner.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition is to the order dated 12.11.2014 passed by the District Judge, Sirsa whereby the application for impleadment by the petitioner as sole legal heir of plaintiff/respondent no.3 Prithi Singh in the Lower Appellate Court was rejected.

The claim by the present petitioner was on the basis of a will dated 19.2.2014(Annexure P/3) which was opposed by Surinder Kaur widow of Charanjit Singh and the daughter-in-law of Prithi Singh. The suit for declaration was filed by Prithi Singh and his family members against defendants No.1 to 5. and as per the judgment dated 22.12.2012 (Annexure P/1) passed by the Civil Judge (Junior Division), Sirsa the suit was decreed. An appeal was preferred by the defendants-Sukhraj Singh and others before the Lower Appellate Court, Sirsa and during the pendency Prithi Singh died on 18.6.2014. The application for impleadment was filed which has now been rejected by the District Judge, Sirsa on the ground that there are other natural legal heirs of Prithi Singh and to resolve the controversy involved in the appeal, it would be expedient in case all the natural legal heirs of Prithi Singh were impleaded as respondents.

Counsel for the petitioner has vehemently contended that in view of the registered will dated 19.2.2014, she was entitled to be impleaded as sole legal representative.

After hearing the counsel for the petitioners, this Court is of the opinion that the said contention is without any basis. If the petitioner has any legal right arising out of the will, she can always agitate her rights in accordance with law on the strength of the will. The Lower Appellate Court was only adjudicating upon the judgment which was subject matter of appeal filed by the defendants and therefore, the Lower Appellate Court was well justified to bring on record all the legal representatives of deceased Prithi Singh. Reliance has also been placed upon the judgment of the Apex Court in **Suresh Kumar Bansal Vs. Krishna Bansal and another (2010) 2 SCC 162** wherein it has been held that interse disputes between the rival legal representatives have to be independently tried to avoid the delay in the disposal of the main suit. In such circumstances, this Court is of the opinion that if the petitioner has any legal right arising out of the will, against her co-respondents in appeal she can always agitate her rights in accordance with law on the strength of the will.

With the aforesaid observations, the present revision petition is dismissed accordingly.

25.02.2015
Pka

(G.S.SANDHAWALIA)
JUDGE