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

**CR No.1964 of 2015 (O&M)**  
**Date of decision: March 19, 2015**

Kartar Singh (since deceased) through his LRs

.....Petitioners

Versus

Amar Nath (since deceased) through his L.Rs.

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

**Present:** Mr. Om Parkash Sharma, Advocate  
for the petitioners.

**SABINA, J**

Petitioners have filed this petition challenging the order dated 08.01.2015, whereby *ex parte* order dated 26.02.2001 and *ex parte* judgment/decreed dated 21.07.2006, were set aside.

Learned counsel for the petitioners has submitted that defendant No.1-Amarnath and his brothers were *Brahmin*, whereas the application for setting aside the *ex parte* proceedings had been filed by their legal representatives, who were *Jains*.

Petitioners had filed suit for declaration that they had become owner of the suit land by way of the adverse possession. Defendants were proceeded *ex parte* and *ex parte* decree was passed in favour of the petitioners on 21.07.2006. Application was filed by the legal representatives of the defendants that the *ex parte* order dated 26.02.2001 and *ex parte* decree dated 21.07.2001 be set aside. Vide impugned

order, the said application was allowed. Hence, the present petition.

The main argument of the learned counsel for the petitioners is that the legal representatives, who had moved the application for setting aside the *ex parte* proceedings were claiming themselves to be *Jains*, whereas the deceased defendants were *Brahmins*. The learned trial Court while allowing the application has held that the said contention of the petitioners was not correct as in the death certificate of defendant No.1-Amarnath, he had been described as Amarnath Jain son of Shambhu Nath Jain. Petitioners had failed to lead any evidence to the contrary. It was duly established on record that before filing of the suit, Amarnath defendant No.1 had died and defendant No.3-Sham Nath had died on 21.07.1997 before he was served through substituted service. The copies of the Jamabandi now placed on record by the petitioners were not produced before the trial Court to rebut the death certificate Exhibit A-1 available on record of defendant No.1-Amarnath. Even otherwise, presumption of truth is attached to the entries in the Jamabandi's but the same stands rebutted by the death certificate available on record.

In these circumstances, impugned order dated 08.01.2015 calls for no interference.

Dismissed.

**(SABINA)  
JUDGE**

**March 19, 2015**

*m.singh*