

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.313 of 2013

Date of decision: 28.11.2015

Sikander Singh

.....Petitioner

versus

Jarnail Singh

.....Respondent

Civil Revision No.343 of 2013

Sikander Singh

.....Petitioner

versus

Jarnail Singh

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.M.L.Saggar, Senior Advocate with
Mr.Sunny Saggar, Advocate for the petitioner
in both the cases
Mr.D.V. Sharma, Senior Advocate with
Ms.Eshjyot Sharma, Advocate for respondent
in both the cases

1. Whether Reporters of Local Newspapers 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?

Kuldeep Singh, J. (Oral)

This order of mine shall dispose of CR No.313 of 2013 and CR No.343 of 2013. For facility of reference, facts are being mentioned from CR No.313 of 2013.

Impugned in the present revision is the order dated 13.10.2012, passed by learned Additional Civil Judge, Senior Division,

Ludhiana, vide which, the application of one Jarnail Singh under Order 1 Rule 10 CPC was allowed and application of the plaintiff Sukhbir Singh for impleading legal heirs of deceased Sikander Kaur -defendant was dismissed.

Suffice to say that the plaintiff had filed suit against his sister Sikander Kaur wife of Bant Singh for declaration to the effect that he is owner in possession of 129 shares out of 548 shares in the land measuring 1 Bighas 7 Biswas and 8 Biswansis. In the suit land, the permanent injunction was also sought. Some other relief regarding some orders of the various authorities was also sought.

During pendency of the suit, Sikander Kaur died. Jarnail Singh filed an application under Order 1 Rule 10 CPC for impleading him as party. The lower Court allowed the said application. However, the application of the plaintiff -Sukhbir Singh for bringing on record the legal heirs of Sikander Kaur was dismissed.

I have heard learned counsel for the parties and have also carefully gone through the file.

In the application, the plaintiff had stated that his sister Sikander Kaur left behind two sons, namely, Gurcharan Singh, Rajwinder Singh and four daughters, namely, Smt.Charanjit Kaur, Smt.Sharanjit Kaur, Smt.Iqbal Kaur and Smt.Sukhwinder Kaur. Rajwinder Singh had pre-deceased Sikander Kaur and he is survived by his widow, namely, Amarjit Kaur, son- Jagjit Singh, daughters- Ms.Daljit Kaur and Ms.Mandeep Kaur. Balwant Singh husband of Sikander Kaur also pre deceased her. Therefore, 9 LR's are sought to be brought on record.

I am of the view that the plaintiff has not given up his relief against Sikander Kaur. Therefore, Sikander Kaur is required to be represented by her legal heirs. It hardly matters, if the legal heirs themselves come to file an application to come on record or the plaintiff files such application. The amended provisions of order 22 Rule 2B CPC do not debar the plaintiff from filing such application. There is a confusion whether Bant Singh husband of Sikander Kaur was also known as Balwant Singh. The same can be clarified before the lower Court by way of filing of the affidavit of the plaintiff, who happens to be real brother of the deceased Sikander Kaur.

It being so, the lower Court erred in holding that Jarnail Singh has stepped into the shoes of Sikander Kaur and that LR's of Sikander Kaur are not to be brought on record. Consequently, the impugned order, so far as dis-allowing the application for bringing on record the LR's of Sikander Kaur is concerned, the same is set aside. LR's of Sikander Kaur as prayed in the application are ordered to be brought on record on the plaintiff's filing an affidavit to the effect that Bant Singh husband of Sikander Kaur was also known as Balwant Singh.

However, since Jarnail Singh is claiming independent right under the sale deed executed prior to the filing of the suit, he can pursue his case independently as one of the defendants.

Both the revisions are accordingly disposed of.

28.11.2015*gk***(Kuldip Singh)
Judge**