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

CR No.3649 of 2015

Date of decision: May 27, 2015

Chander Kalan

.....Petitioner

Versus

Ajay Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ajay Jain, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 14.05.2015, whereby application moved by the petitioner under Order 1 Rule 10(2) of Code of Civil Procedure, 1908 ('CPC' for short) for her transposition as defendant, was dismissed.

Learned counsel for the petitioner has submitted that the petitioner was a minor at the time of filing of the suit. Suit had been filed on behalf of the petitioner by her elder sister Suman Devi-plaintiff No.1. In fact, petitioner wants to accept the claim of the defendant No.1, her brother. Therefore, it was necessary in the interest of justice to transpose the petitioner as a defendant. In support of his arguments, learned counsel has placed reliance on ***Mahesh Chander Dewan versus Kanti Chander Dewan***, 1994 (54)

DLT 244, wherein, it was held as under:

“5. Law as to the transposition of the parties is well settled. It will be useful to notice the scheme of order 1 Civil Procedure Code. Under Rule 1 all persons may be joined in one suit as plaintiffs in the given circumstances cause of action being common or common questions of law of fact arising, to be short. Rule 2 empowers the court to order separate trials or making such other order as it may deem expedient where it may appear to the court that joinder of plaintiffs may embraces or delay the trial of the suit, of course after putting the plaintiffs to their election. Rule 10 confers vide powers on the court in the matter of striking out, adding or transposing the parties at any stage of the proceedings either upon or without the application of either party.”

In the present case, petitioner alongwith others has filed suit for declaration that the plaintiffs and performa defendant were owners in possession of the suit property in equal shares and the will dated 05.09.2011 alleged to have been executed by Mansa Ram (deceased) in favour of defendant No.1-Ajay Singh, was a result of fraud and fabrication.

At the time of filing of the suit, petitioner was a minor and had filed the suit through her sister Suman Devi (plaintiff No.1). During the pendency of the suit, petitioner became a major and moved an application that she be transposed as defendant No.3.

In the present case, parties are closely related to each other. Plaintiffs are the daughters of Mansa Ram

(deceased), whereas, defendant No.1 Ajay Singh is the adopted son of Mansa Ram (deceased). Defendant No.2 Chando Devi is the mother of deceased Mansa Ram. Plaintiffs by way of the suit have challenged the will executed by Mansa Ram (deceased) in favour of his adopted son. So far as the plaintiffs are concerned, they have sought relief against defendant No.1-Ajay Singh. In these circumstances, the learned trial Court rightly held that there was no occasion to transpose the petitioner as a defendant in the suit as the plaintiffs were not claiming any relief against her. In the facts and circumstances of the present case, the judgment relied upon by the learned counsel for the petitioner fails to advance the case of the petitioner.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

May 27, 2015

m.singh