

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.3986 of 2015 (O&M)

Date of Decision.22.07.2015

State of Punjab and others

.....Petitioners

Versus

Daljit Kaur and others

.....Respondents

Present: Ms. Vandana Malhotra, Addl. A.G., Punjab
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. There is no merit in the revision petition that challenges the order passed by the Appellate Court allowing the suit to be prosecuted as an indigent person. An earlier dismissal of application filed by the plaintiff's husband ought not to be a bar at all, for, it is an independent cause of action arising to the parties claiming as legal representatives of the deceased to contend that they are entitled to certain claims against the State for the negligent operation by a government servant that resulted ultimately in the death of the person.

2. The counsel argues that earlier an application had been filed by the deceased in the suit for prosecuting the case as an indigent person but that was declined on the evidence produced by the State that he had withdrawn some money from the bank and from the employer which showed the existence of resources. What was possible for proof against the deceased may not still be stated against the legal

representatives to constitute the same defence as available. If the persons who had filed the independent suit have not been shown to possess any means for prosecution of the case, the case was perfectly competent to allow for the prosecution of the suit as indigent person.

3. I must observe that there has been a gross travesty of justice for this case to prolong from the year 2003 when it was instituted by the 1st plaintiff's husband during his life time but took more than 9 years for disposal of application under Order 33 Rule 1 CPC. What was denied to the deceased during his life time at least there has been poetic justice in allowing for prosecution of the suit by the legal representatives now. That the State should bring a plea and matter in challenge to the High Court for contest is unfortunate. This wasteful adventurism of the State must abate.

4. The State will not irresponsible in defence any longer and will make every endeavour to assist the Court to head for a quick disposal of the case. The revision petition is dismissed.

(K. KANNAN)
JUDGE

July 22, 2015
Pankaj*