

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

CR-4827-2013

Date of decision-03.12.2015

KARAMJIT KAUR

...Petitioner

VS

MANJIT KAUR AND ORS

..Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vivek Rattan, Advocate
for the petitioner.

Mr. Raman Mohinder Sharma, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J (Oral)

[1] Petitioner has assailed order dated 23.05.2013 passed by Additional Civil Judge (Senior Division) Dhuri vide which the application filed by respondent No.2 Gurmeet Kaur under Order 9 Rule 7 CPC for setting aside the ex parte proceedings and for providing opportunity of being heard in a petition under Section 372 of Indian Succession Act has been allowed.

[2] In the original petition filed under Section 372 of Indian Succession Act, general public as well as Manjit Kaur have been impleaded as respondents. General public was proceeded against ex parte before the trial Court. However, Gurmeet Kaur came forward by

way of moving an application in question pleading that she being legally wedded wife of Makhan Singh deceased has a right in his properties. Makhan Singh never took divorce from her, nor solemnized any marriage with Gurmeet Kaur. It has been claimed that Gurmeet Kaur has no right to get the amount lying deposited in the name of Makhan Singh. She claimed herself to be only legal heir of deceased Makhan Singh. She being one of the member from general public also claimed herself to be entitled to move this application for seeking setting aside of ex parte proceedings and put her claim in the petition under Section 372 of Indian Succession Act.

[3] In this revision petition, respondent No.3 could not be served for want of deposit of publication charges. Learned counsel for the petitioner states that since general public has been proceeded against ex parte in the trial Court, therefore, for the purposes of decision of this revision petition, service qua respondent No.3 be dispensed with. Even otherwise, respondent No.2 being one of the member from general public has been allowed to file the application in question, seeking setting aside all the ex parte proceedings pending before the trial Court. Therefore, I propose to decide the revision petition in the presence of contesting parties i.e. Petitioner and respondent No.2.

[4] Learned counsel for the petitioner contends that in view of Will dated 10.12.2008, petitioner is the only beneficiary to whom properties of Makhan Singh would devolve and therefore, the claim put forward by the respondent No.2 is not legally sustainable. Since after the passing of the impugned order dated 23.05.2013, concededly both the parties have already led evidence and now matter is fixed for arguments on 07.12.2015. Since the respondent No.2 has been allowed to join the proceedings to participate in the case on the basis of her stakes in the litigation, therefore, at this stage it will not be proper to opine as to whether claim of the respondent No.2 is sustainable or not. Since the matter is pending before the trial Court for final adjudication, therefore, without commenting anything on merits, let the trial Court may proceed with the case finally. No interference is called for.

Dismissed.

(RAJ MOHAN SINGH)
JUDGE

December 03, 2015

vanita