

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 5195 of 2013

Date of Decision: 28.07.2015

Shugna Bai

.....Petitioner

Vs.

Kishori Lal and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ashok Arora, Advocate,
for the petitioner.

Mr. Sunil Sahran, Advocate,
for respondents No. 1 to 5.

SABINA, J.

Petitioner has filed this petition challenging the order dated 08.08.2013, whereby application moved by the petitioner for permission to implead the legal representatives of deceased Raj Kumar as defendants No. 10 to 12, was dismissed.

Learned counsel for the petitioner has submitted that the petitioner has filed suit for possession by way of declaration to the effect that she was owner of 1/8th share of the land inherited by her father Rangu Ram. Defendant No. 6 in his written statement took up an objection that the suit was bad for non-joinder of necessary parties as legal representatives of Raj Kumar, son of Rangu Ram had not been impleaded as party to the suit. Although, the petitioner had failed to immediately moved an application for impleading the

legal representatives of deceased Raj Kumar as party to the suit but the application was liable to be allowed so that the *lis* between the parties could be disposed of in a more effective manner.

Learned counsel for respondents No. 1 to 5, on the other hand, has opposed the petition.

In the present case, petitioner has filed suit for declaration that she was owner to the extent of 1/8th share of the suit land by way of inheritance. It was further the case of the petitioner that the oral Will dated 26.02.1986, alleged to have been executed by her father Rangu Ram in favour of her brothers Chiranji Lal and Raj Kumar was based on fraud. It was further prayed that the sale deed dated 24.11.2004, executed by Raj Kumar in favour of Arun Kumar, defendant No. 6 was illegal.

Defendant No. 6 in his written statement took up an objection that the suit was bad for non-joinder of the necessary parties as legal heirs of deceased Raj Kumar had not been impleaded as a party to the suit.

A perusal of the plaint (Annexure P-1) reveals that the so far as the Chiranji Lal, brother of the petitioner is concerned, his legal representatives have been impleaded as defendants in the suit. Petitioner has also impleaded her sisters as defendants in the suit. However, legal heirs of Raj Kumar, brother of the petitioner were not impleaded as defendants in the suit filed by the petitioner. The legal heirs of deceased Raj Kumar are necessary party as the petitioner has challenged that the oral Will alleged to have been executed in favour of Raj Kumar and the sale deed executed by Raj Kumar in

favour of defendant No. 6.

Although, the petitioner was not vigilant in pursuing her case and should have moved the application for impleading the legal representatives of Raj Kumar as party to the suit after the written statement was filed by defendant No. 6 but the ends of justice require that legal representatives of deceased Raj Kumar be brought on record so that the trial Court can dispose of the *lis* between the parties after hearing all the concerned parties.

Accordingly, this petition is allowed. Impugned order dated 08.08.2013 is set aside. Consequently, the application moved by the petitioner (Annexure P-3) for impleading the legal representatives of deceased Raj Kumar as defendants No. 10 to 12 is allowed and the petitioner is also permitted to place on record the amended title of the suit to this extent.

**(SABINA)
JUDGE**

July 28, 2015
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