

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

C.R. No.5387 of 2013

Date of Decision.05.05.2015

Ramalo daughter of Harnam Singh

.....Petitioner

Versus

Ajaib Singh and others

.....Respondents

Present: Mr. Arun Jain, Senior Advocate with
Mr. Arjun Veer Sharma, Advocate
for the petitioner.

Mr. J.S. Cooner, Advocate
for respondent Nos.1 to 6.

Mr. Sanjay Jain, Advocate
for respondent No.7.

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. In a suit instituted by one Shri Ram his wife Kartaro Devi was added as legal representative on Shri Ram's death. One Gurjinder Singh also sought impleadment as an adopted son although his own status as adopted son was denied. Now, Kartaro Devi has expired and as the husband's heir, the sister of Shri Ram, Smt. Ramola has filed an application for impleadment. It appears that Ramola has independently filed a suit against Ajaib Singh and the case is pending. The petition for impleadment has been dismissed.

2. The order passed by the Court below is not correct. A legal representative is a wider expression than a legal heir. The only point for consideration in the suit that would be relevant is whether Shri Ram is entitled to the property. Any one claiming to the estate and who may show

a reasonable nexus to the deceased through kinship ought to be brought on record and it is unnecessary for a Court to adjudge on the inter se rights between Ramola and the person impleaded already namely Gurjinder Singh. The trial will only focus adjudication on the entitlement or otherwise of the deceased-Shri Ram to the property and if the Court finds such a cause, it can grant a decree to the person who it finds as the representative who would be entitled to take the estate and leave it to the contesting parties claiming as representative heirs of Shri Ram in independent proceedings to settle their scores. As far as the defendant is concerned, he cannot join issues on the inter se dispute between the persons claiming to be the respective legal representatives of the deceased-Shri Ram. The impleadment ought to be ordered and I would direct Ramola to be added as a co-defendant and in the manner of conduct of trial, the petitioner will be allowed to adduce evidence before the contesting defendant and in the course of cross-examination, the plaintiff himself may cross-examine the petitioner before the defendant cross examines. Again in the matter of cross-examination of the already contesting defendant, in the order of cross-examination, it shall be co-defendant Ramola who will first cross-examine and then Gurjinder will do the cross-examination. I merely set out the procedure for conduct of the trial after impleadment of the petitioner to avoid any further future conflicts about the manner of how the trial will progress.

3. The impugned order is set aside and the civil revision petition is allowed with the above observations.

(K. KANNAN)
JUDGE

May 05, 2015
Pankaj*