

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 7420 of 2013 [O&M]
Date of Decision : February 5th, 2015

Bhupinder Singh and others Petitioners

Versus

Mamta and others Respondents

CORAM : HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON

Present Mr. Sandeep Arora, Advocate,
for the petitioners.

Mr. Dheeraj Mahajan, Advocate
for respondent No.1.

Dr. BHARAT BHUSHAN PARSOON, J.

Despite service, no one is present on behalf of respondents No.2 to 4. They are proceeded against *ex parte*.

2. A suit for declaration to the effect that plaintiff, Smt.Mamta, respondent No.1 herein, is entitled for the service benefits on the death of her husband, Mohinder Singh along with interest @ 12 per annum with a decree of mandatory injunction to release the service benefits along with compound interest @ 12% per annum, is pending before the trial Court.

3. On an application under Order 1 Rule 10 CPC filed by Smt. Krishna Devi, mother of the employee, Mohinder Singh [since deceased], she was impleaded as one of the defendants. After her death, an application was moved by legal heirs of Smt. Krishna Devi, mother of the deceased, for bringing them on record as her L.Rs.

4. This application was strongly resisted by the plaintiff claiming that the applicants have no right, title or interest in the service benefits of her deceased husband. Dismissal of the application for impleadment of other wards of Smt. Krishna Devi, mother of the deceased was sought. The trial Court dismissed the said application vide order dated 26.09.2013.

This order is under challenge in this revision petition.

5. Death of Smt. Krishan Devi, mother of the deceased husband of respondent No.1 [Smt. Mamta] is an event, which primarily forecloses her LRs to be brought on record particularly when the widow of the deceased employee is on record as his first class heir. Benefit if any, which was to flow even to mother, Smt. Krishna Devi, was personal in nature, she being also class I heir and who had competing interest with the widow of the deceased employee. The trial Court is right in coming to a conclusion that in the presence of first class heir, i.e., widow of the deceased employee, joining of LRs of other deceased viz., Smt. Krishna Devi, mother of the deceased, would be futile exercise. So far as succession of Mohinder Singh [deceased] is concerned, his sisters and brothers being sons of his mother, Smt. Krishna Devi, are class II heirs, have no subsisting right, title or interest in the service benefits of Mohinder Singh, deceased whose widow is alive and is contesting the suit.

6. Learned counsel for respondent No.1, widow Smt. Mamta, has referred to a decision of this Court in **Mohinder Singh Vs. Jagir Singh 1997 [3] RCR [Civil] 680**, wherein, it was specifically held that in the face of existence of class I heir, succession will not be open to the 2nd class heirs and thus, second class heirs will not be necessary parties if first class heir is already claiming succession to the estate of the deceased.

7. Keeping in view the totality of facts and circumstances, there is no merit in this revision petition. Upholding the impugned order dated 26.9.2013, this petition is dismissed.

(Dr. BHARAT BHUSHAN PARSOON)
JUDGE

February 5th, 2015
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1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?