

**CR-7275-2014 (O&M)**

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

**CR-7275-2014 (O&M).  
Decided on: April 22, 2015.**

**Balwinder Singh**

**..... Petitioner**

**Versus**

**Jaswinder Singh and others**

**..... Respondent**

**\* \* \***

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI**

**PRESENT Mr.Rakesh Gupta, Advocate,  
for the petitioner.**

**Ms.G.K.Turka, Advocate,  
for the respondents.**

**M.M.S. BEDI, J (ORAL).**

The defendant has filed this revision petition invoking the jurisdiction of this Court under Article 227 of the Constitution of India, challenging the order dated 27.8.2014 passed by the Civil Judge (Sr., Divn.), Rajpura, allowing the application of respondent Nos.1 to 5 and impleading them as legal heirs of Tej Kaur plaintiff. It is pertinent to observe here that respondent Nos. 1 to 5 who have been impleaded in place of Tej Kaur plaintiff are the sons and grand sons of Tej Kaur. Her husband Kirpal Singh has not been impleaded as legal heir of Tej Kaur. The claim of the defendant-petitioner is that the trial Court ought to have impleaded the husband

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of Tej Kaur also as legal representative along with other LR's who are respondent Nos.1 to 5.

Counsel for the defendant-petitioner has relied upon judgments **Shism Ram and another Vs. Vijender and others, 2010 (3) Civil Court cases 317, and Mahender Nath Vs. Satender Nath and others, 2010 (3) Civil Court cases 284**, in support of his contentions that when the trial Court impleads LR's of a deceased party without determining whether they are actually the representatives of the deceased, the said action is illegal. Judgment in **Mahender Nath's** case (supra) has been relied upon to submit that when there is controversy regarding the impleadment of LR's on the basis of natural succession or on the basis of Will then all the parties may be impleaded as LR's of the deceased.

Counsel for the respondents has submitted that Tej Kaur had filed a suit for declaration challenging revenue entry in favour of defendant-petitioner Balwinder Singh by the revenue authorities, defendants Nos.2 & 3, and that the property in dispute belongs to the father of Tej Kaur, as such being a female, the inheritance would be governed by Section 15 of the Hindu Succession Act, which reads as follow: -

***“15. General rules of succession in the case of female Hindus. -***

*(1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,-*

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*(a) Firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;*

*(b) Secondly, upon the heirs of the husband;*

*(c) Thirdly, upon the mother and father;*

*(d) Fourthly, upon the heirs of the father; and*

*(e) Lastly, upon the heirs of the mother.*

*(2) Notwithstanding anything contained in subsection (1),-*

*(a) Any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father; and*

*(b) Any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.”*

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It has been argued by the counsel for the respondents that since the property vesting in Tej Kaur could not devolve upon her husband Kirpal Singh, as such, her sons and grand sons had moved an application under Order 22 Rule 3 CPC to be impleaded as LR's of Tej Kaur as the objective of impleadment of LR's is only to implead persons who would pursuant to suit on behalf of deceased plaintiff or defendant and the objective is not to decide the succession or right of inheritance of the property of the deceased party.

I have heard the counsel for the petitioner as well as the counsel for the respondent and I am of the opinion that the petitioner does not seem to have any locus standi to question the impleadment of LR's of deceased plaintiff especially when her natural heirs who are entitled to succeed in accordance with law to her interest in the property had opted to move an application under Order 22 Rule 3 CPC omitting to implead the husband of deceased Tej Kaur. It is also pertinent to observe here that the husband of deceased Tej Kaur has also not sought to be impleaded as legal representative of Tej Kaur.

Counsel for the petitioner has contended that Section 2 (11) of the CPC, defines legal representatives as a person who in law represents the estate of the deceased person. He submits that Kirpal Singh would in law represent the estate of deceased, as such he ought to have been impleaded as one of the LR's of Tej Kaur.

I have considered the above said contention of the learned counsel for the petitioner and I am of the opinion that object of impleading LR's is not to implead the persons who would acquire right, title or interest in the property but objective is to implead a person when the right to sue survives after the death of the plaintiff or the defendant. Order 22 Rule 3 CPC, in this context can be referred to which reads as follows: -

*“3 . Procedure in case of death of one of several plaintiffs or of sole plaintiff— (1) Where one of two or more plaintiffs dies and the right to sue does not survive to the surviving plaintiff or plaintiffs alone, or a sole plaintiff or sole surviving plaintiff dies and the right to the sue survives, the Court, on an application made in that behalf, shall cause the legal representative of the deceased plaintiff to be made a party and shall proceed with the suit.*  
*(2) Where within the time limited by law no application is made under sub-rule (1), the suit shall abate so far as the deceased plaintiff is concerned, and, on the application of the defendant, the Court may award to him the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff.”*

Taking into consideration the above said discussion, I am of the opinion that non-impleadment of husband of Tej Kaur as one of her LR's will not, in any manner, prejudice the rights of the defendant-petitioner and that the legal representatives who fall under

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definition of legal representative under Section 2 (11) of the CPC, i.e., persons on whom the estate of deceased would devolve after the suing party has died, have already been brought on record.

No ground is made out for interference in the impugned order to implead the husband of deceased Tej Kaur as one of her legal representatives.

The petition is dismissed.

Nothing said in this order will prejudice the pleas taken up in the written statement qua Kirpal Singh.

**April 22, 2015.**  
**rka**

**(M.M.S. BEDI)**  
**JUDGE**