

260.

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

Civil Revision No.951 of 2015

Date of decision: 04.12.2015

Avtar Singh (deceased, through his LRs) and others ... Petitioners

versus

Nirmal Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Munish Bhardwaj, Advocate,
for the petitioners.

Mr. D.S. Gurna, Advocate,
for respondents 1 and 2.

K.Kannan, J. (Oral)

1. Pending a suit claiming declaration of the properties to the grandfather's estate, the plea by the defendants was that the daughters of the propositus Mehma Singh have not been impleaded. The petition was filed under Order 6 Rule 17 CPC.

2. There is a gross delay in filing an application after the commencement of the plaintiff's side for trial. Petition should have been filed under Order 1 Rule 10 CPC. Having regard to the fact that in a suit for declaration, all the legal heirs of common ancestor would be necessary, it will be only appropriate and just to order the impleadment, reading the application under Order 1 Rule 10 CPC instead of Order 6 Rule 17 CPC.

3. For the sheer indiscretion in approaching the court after enormous delay, I impose a cost of ₹15,000/- against the plaintiffs for ordering the petition. Notice will be issued of the suit to the proposed parties who are directed to be impleaded. The plaintiff will give no further evidence and the court shall take the written statement of the newly added parties on record, set an immediate date for filing the written statement and proceed in accordance with law. The nature of statement of the daughters as either supporting the plaintiff or the defendants will determine the issue of whether the defendants who are already on record shall be permitted to give additional evidence. If the newly added parties support the case of the plaintiffs, they shall give evidence before the other defendants and the respondents herein shall give their evidence; otherwise, evidence shall be recorded in the order in which parties are arrayed.

4. The impugned order is modified and the revision petition is allowed but subject to the above terms.

(K.KANNAN)
JUDGE

04.12.2015
sanjeev