

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

CR No.1064 of 2016

Date of decision : 11.02.2016

Jagdish Chander

.....Petitioner

Versus

Naresh Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. Arun Singal, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 09.12.2015 (*wrongly mentioned the date as 08.01.2016 in the head-note of the present revision petition*) passed by learned Civil Judge (Junior Division) Panipat, whereby the application filed by the plaintiff to implead the legal heirs of deceased defendants No.2 & 3 has been allowed.

2. Learned counsel for the petitioner contended that it is an admitted fact that defendants No.2 & 3 had already died before the institution of the suit, so the order passed by learned trial court to implead

them as the legal representatives of defendants No.2 & 3 is illegal. The plaintiffs have filed the suit against the dead persons and the suit was not maintainable.

3. I have duly considered the aforesaid contentions.

4. It is an admitted fact that defendant No.2 Prem Chand and defendant No.3 Rishi Ram had died prior to the filing of the suit by plaintiffs-respondents. The suit was filed on 04.08.2011 and the application to implead the legal representatives of defendants No.2 & 3 was filed on 20.8.2011 i.e. just after 16 days of filing the suit. Their death might have come to the knowledge of the plaintiffs when the summonses were issued to them.

5. The learned trial court has relied upon case ***Joginder Singh Vs. Chander Kanta through Lrs & others 2006(4) RCR (Civil) 418*** wherein this court laid down that if a suit has been filed against a dead person without knowledge of his death, then it is open to the plaintiff to move the application immediately on coming to know the death of the defendant to implead his legal representatives.

6. This fact is not disputed that the legal representatives of deceased defendants were the necessary party to the suit after their death. So, no fault can be found with the impugned order impleading the legal representatives of defendants No.2 & 3.

7. Thus, keeping in view my aforesaid discussion, the impugned order does not suffer from any illegality to call any interference by this court.

8. Resultantly, the present revision petition is without any merits and the same is hereby dismissed.

11.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**