

CR-1250-2016

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IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-1250-2016

Date of decision : 18.02.2016

Jasvir Kaur alias Jasbir Kaur

... Petitioner

Versus

Baljit Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ashish Gupta, Advocate
for the petitioner.

REKHA MITTAL. J.(ORAL)

The present petition has been directed against order dated 13.01.2016 passed by the Additional Civil Judge (Senior Division), Baghapurana whereby the application filed by respondents No.7 & 8 for impleading as a party on the array of defendants in the suit preferred by the petitioner has been allowed.

Counsel for the petitioner contends that respondents No.7 & 8 are the real sisters of respondents No.3 to 6 who have been made as a party in the suit and remained contesting the proceedings for the past more than nine years. It is further submitted that as brothers of respondents No.7 & 8 were made a party, it is highly difficult to believe that applicants/ respondents No.7 & 8 were not aware of pendency of proceedings before the Court. According to counsel, as Tej Kaur and

Gurdev Kaur have filed an application for their impleadment at a highly belated stage, order passed by the trial Court is liable to be set aside.

I have heard counsel for the petitioner, perused the records and find no merit in the petition.

Perusal of plaint filed by the petitioner would evident that the petitioner has claimed right in the suit property on the basis of natural succession to her husband Jarnail Singh. One of the allegations in the plaint is that mother of Sh.Jarnail Singh namely Smt.Bhagwan Kaur pre-deceased Jarnail Singh, husband of the petitioner. Tej Kaur and Gurdev Kaur filed the application under Order 1 Rule 10 CPC, supported by the death certificates of Jarnail Singh and Bhagwan Kaur thereby contending that Jarnail Singh passed away prior to death of Bhagwan Kaur and thus, Bhagwan Kaur being the mother inherited Sh.Jarnail Singh on the basis of natural succession. It was also pleaded that in case claim of the petitioner in regard to inheritance to the estate of Jarnail Singh is accepted, they would also be entitled to a share in the suit property being Class I heirs of Smt.Bhagwan Kaur.

Counsel for the petitioner has not disputed that as per the death certificates placed on record, Smt.Bhagwan Kaur passed away subsequent to death of Sh.Jarnail Singh, husband of the petitioner. In the circumstances of the case, respondents No.7 & 8 become necessary party for complete and effective adjudication of the matter in controversy. That being so, any delay in filing the application cannot stand in their way to

be impleaded as defendants and contest the proceedings. In this view of the matter, the order passed by the trial Court cannot be faulted with.

For the foregoing reasons, the petition is dismissed in limine.

(REKHA MITTAL)
JUDGE

February 18, 2016.
Davinder Kumar