

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

CR No.1934 of 2016

Date of decision: 15.03.2016

Bisamber Dayal

..... Petitioner.

Versus

Chiranji Lal (deceased) through LRs. and others.

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Ajay Jain, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present civil revision petition has been preferred against the order dated 09.02.2016 passed by the learned District Judge, Rewari, vide which the application moved by the petitioner and others for being impleaded as the legal heirs of deceased Mool Chand on the basis of the Will dated 13.02.2009 has been dismissed.

2. Learned counsel for the petitioner contended that by making the observation in the impugned order, the learned First Appellate Court has virtually decreed the suit. He contended that deceased-Mool Chand has executed the valid Will in favour of the petitioner and others. They were entitled to be impleaded as legal representatives of deceased-Mool

Chand on the basis of the Will dated 13.02.2009. Impleading them as legal representatives of Mool Chand was essential to represent his estate.

3. I have duly considered the aforesaid contentions.

4. There is no dispute with the proposition of law that the validity or otherwise of the Will dated 13.02.2009 propounded by the petitioner and others is not to be decided in the present suit. The present suit has been filed by the plaintiff-respondent for separate possession by way of partition to the extent of 1/ 7th share claiming the suit property to be ancestral. The suit was contested by deceased-Mool Chand on the ground that he was the exclusive owner of the suit property and the suit filed by the plaintiff-respondent was dismissed. Mool Chand alone was not impleaded as a defendant in the suit. Rather, the petitioner who happens to be the son of deceased-Mool Chand was already impleaded as respondent no.3 in the appeal filed in the Court of learned District Judge, Rewari. Other family members of deceased-Mool Chand are already on record. Thus, legal representatives of deceased-Mool Chand are already available on record to represent his estate. The matter in issue can be effectively and completely adjudicated upon in their presence. The question with respect to the validity of the Will dated 13.02.2009 allegedly executed by deceased-Mool Chand in favour of the petitioner and others is not the subject matter of the present

suit and has to be decided in the separate proceedings. Thus, no fault can be found with the impugned order dismissing the application moved by the petitioner and others for impleading them as the legal representatives of deceased-Mool Chand as they were already available on record being the party to the appeal.

5. Thus, I do not find any illegality in the impugned order calling for any interference by this Court while exercising the supervisory powers under Article 227 of the Constitution of India.

6. Resultantly, the present revision petition having, no merits, is hereby dismissed.

15.03.2016

S.khan

(DARSHAN SINGH)
JUDGE