

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.2532 of 2016

Date of Decision.04.10.2016

Pritam Singh (deceased) through LRs

.....Petitioner

Vs

Harjinder Singh and another

.....Respondents

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

Mr. Harit Sharma, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-plaintiff is aggrieved of the impugned order whereby it dismissed the application for impleadment of legal representatives of Pritam Singh and the suit was also dismissed as abated.

Mr. Aayush Gupta, learned counsel appearing for the petitioner has drawn attention of this Court to the provisions of Order 22 Rule 3 CPC as applicable to Punjab and Haryana High Court. The same reads thus:-

“Rule 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 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.

Punjab and Haryana High Court Amendment-In Order XXII, in rule 3, for sub-rule (2), substitute the following, sub-rule, namely:-

(2) Where within the time limited by law no application is made under sub-rule (1), the suit shall not abate as against the deceased plaintiff and the judgment may be pronounced notwithstanding his death which shall have the same effect as if it has been pronounced before the death took place, and the contract between the deceased and the pleader in that event shall continue to subsist.

In view of the aforementioned fact, on demise of the plaintiff,

the suit is not abated. This fact cannot be controverted by Mr. Harit Sharma, learned counsel appearing for the respondents who submits that the suit is not maintainable. I would not delve on the merits of the case as it would affect rights of parties and as well as it is not the appropriate remedy.

For the foregoing reasons, the impugned order is set aside. Liberty is granted to the petitioner to move application for bringing on record the legal representatives. If such application is moved, the Court below shall decide the same in accordance with law, as observed above.

The revision petition is allowed.

(AMIT RAWAL)
JUDGE

October 04, 2016
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No