

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Revision No. 3786 of 2010 (O&M)

Sandeep Kaur
... Petitioner(s)

Versus

Surmukh Singh (since deceased) through his Legal Heirs and Others
... Respondent(s)

AND

2. Civil Revision No. 3787 of 2010 (O&M)

Sandeep Kaur
... Petitioner(s)

Versus

Taljinder Singh and Others
... Respondent(s)

Date of Decision : 22.04.2016

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. G.P.Vashist, Advocate
for the petitioner(s).

Mr. Balpreet Sidhu, Advocate
for respondent No.1 (In CR-3786-2010).

Mr. Gaurav Bhaiya, Advocate
for respondent No.2 (In CR-3786-2010) And
for respondents no.1 to 4 (In CR-3787-2010).

Shekher Dhawan, J.

This order of mine shall dispose of two revision petitions i.e. Civil Revision No. 3786 of 2010 titled "Sandeep Kaur v. Surmukh Singh (since deceased) through his Legal Heirs and Others" and Civil Revision No. 3787 of 2010 titled as "Sandeep Kaur v. Taljinder Singh and Others". For the purpose of adjudication, facts are being taken from Civil Revision No. 3786 of 2010.

Present petition under Article 227 of the Constitution of India for setting aside order dated 28.4.2010, passed by learned Civil Judge (Junior Division), Samrala, whereby application, filed by petitioner-Sandeep Kaur for deciding the date of death of defendant No.1-Surjit Kaur was dismissed.

Learned counsel for the petitioner submitted that in fact Randhir Singh was owner of the land and after his death, mutation was sanctioned in favour of his sons. Rajinder Singh died on 16.7.1995. He was bachelor and his inheritance was sanctioned in favour of his mother. Mutation Nos. 5731 & 5950 were entered regarding the estate of Rajinder Singh and mutation Nos. 5951 & 5732 was entered regarding the estate of Sampuran Kaur. Civil Suit No. 6 dated 7.1.1997 was filed by Sarmukh and another regarding the estate of Sampuran Kaur on the basis of alleged unregistered will deed dated 10.9.1994. Status of Surjit Kaur being wife of Harjinder Singh was denied.

An application under Order 1 Rule 10 CPC was filed by the petitioner to be impleaded as a party being adopted daughter of Surjit Kaur vide registered adoption deed dated 5.8.1999. Application was

contested by the plaintiff/respondents and the trial Court allowed the same on 18.11.2008. Revision petition was filed before this Court and vide order dated 25.8.2009, the said order was set aside and application under Order 1 Rule 10 CPC was dismissed. Thereafter, petitioner filed an application to determine the date of death of Surjit Kaur, which is unheard of since 9.2.2001 and to implead the applicant as legal heir of Surjit Kaur and the same has been dismissed by taking erroneous view vide order dated 28.4.2010, which is liable to be set aside.

Learned counsel for the petitioner also submitted that principles of *res judicata* are not applicable to the decision of the application and the Court below should have permitted the applicant to be impleaded as legal heir of Surjit Kaur to contest the suit and the impugned order is liable to be set aside.

Learned counsel for the petitioner also submitted that in such like matters, principles of *res judicata* are not applicable. On this point, reliance was placed upon the judgment rendered by Hon'ble Full Bench of this Court in ***Mohinder Kaur and Another v. Para Singh and Others AIR 1981 Punjab and Haryana 130(1)***.

Learned counsel for the respondents mainly submitted that the present controversy has already been decided by this Court while deciding Civil Revision No. 7027 of 2008 on 25.8.2009.

Having considered the submissions made by learned counsel for the parties and gone through the judgment rendered by Full Bench of this Court in ***Mohinder Kaur's case (supra)***, this Court is of

the considered view that facts of the case in hand are distinguishable from the facts of above referred case for the reasons detailed hereunder.

The Court below has rightly observed that the applicant, in the present case, has no *locus standi* to file the application as similar controversy had already been decided while deciding the application under Order 1 Rule 10 CPC, which has already attained the finality by way of decision of Civil Revision No. 7027 of 2008. The Court below has rightly observed that this Court, while deciding Civil Revision No. 7027 of 2008, had observed that the applicant was not held to be adopted daughter of Surjit Kaur. The Court below has rightly observed that the present applicant just wanted to get herself impleaded as legal heir, though she has got no right to be impleaded as such and that controversy had already been decided by this Court and the factum of death of Surjit Kaur has no bearing on the present case. This Court had observed, while deciding Civil Revision No. 7027 of 2008, that Sandeep Kaur is an instrument at the hands of some unscrupulous persons to apply for being impleaded as party. Even *prima facie* no case is made out to observe that she is adopted daughter of Rajinder Singh and Surjit Kaur so as to continue with the suit. The Court below had also observed that though Surjit Kaur was missing since 9.2.2001 but Sandeep Kaur never informed the Court about that and remained silent for pretty long period. The Court below has rightly dismissed the application vide impugned order.

In view of the observations made above, present petition,
being without any merit, stands dismissed.

**(Shekher Dhawan)
Judge**

April 22, 2016
"DK"