

CR-3232-2014

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IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-3232-2014

Date of decision : 08.02.2016

Minakshi

... Petitioner

Versus

Jagroop Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. K. S. Cheema, Advocate
for the petitioner.

Mr.Satbir Rathore, Advocate
for respondents No.1 to 6.

REKHA MITTAL. J.

The present petition lays challenge to order dated 09.04.2014 passed by the Civil Judge (Junior Division), Mukerian whereby the application filed by the petitioner for impleading her as a party in the suit for partition titled Jagroop Singh and others Vs. Gurnam Kaur and others, has been dismissed.

Counsel for the petitioner contends that the petitioner is the daughter of Sh.Onkar Dutt, one of the co-owners in the land sought to be partitioned by metes and bounds. Sh.Onkar Dutt passed away leaving behind Sudarshna Rani (widow), Pawan Kumar, Vinod Kumar (sons), Minakshi and Sangeeta (daughters) and as such, the applicant is entitled to be heard in the matter being one of the Class I heirs of deceased Onkar

Dutt. It is further submitted that Sudarshna Rani (widow), Pawan Kumar and Vinod Kumar (sons) of Onkar Dutt have already been impleaded as defendants by the respondents. It is further argued that the learned trial Court has dismissed the application on the sole ground that mutation No.2168 dated 25.05.1988 was sanctioned qua inheritance of Onkar Dutt and the applicant has not challenged the said mutation till date, therefore, she is not entitled to be heard in the matter. It is further argued that mutation neither creates nor extinguishes right of ownership, therefore, the trial Court has committed a gross error in rejecting the application.

Counsel for the respondents/plaintiffs has supported the impugned order with the submissions that the application filed by the petitioner is nothing but a mischievous device to delay / prolong conclusion of proceedings in regard to partition of joint land. It is further argued that no prejudice would be caused to the petitioner in case she is not brought on record as her mother and brothers are already a party on the array of defendants and they are contesting claim of the respondents/plaintiffs.

In reply, counsel for the petitioner would contend that in case the petitioner is allowed to be impleaded as defendant, she would file the written statement and adduce her evidence in two dates. It is also submitted that the petitioner will not claim recalling of witnesses already examined by the parties for cross-examination and she has got no objection if the evidence already adduced by the parties is read qua her as

well for decision of the suit.

I have heard counsel for the parties and perused the records.

The submissions made by counsel for the petitioner in response to the submission of counsel for the respondents, to a larger extent has satisfied counsel for the contesting respondents that impleadment of the petitioner as a party may not cause much delay, in the present scenario. Even otherwise, indisputably, the mutation does not vest or divest the ownership rights and mutation is entered for fiscal purpose as well as to straighten the revenue records. The Class I heirs of deceased Onkar Dutt already impleaded as defendants have not opposed the application filed by the petitioner on any ground whatever. The petitioner cannot raise any issue inter se the Class I heirs of deceased Onkar Dutt for adjudication in the present case. As the petitioner is one of the Class I heirs of deceased Onkar Dutt, the erstwhile co-owner in the land in question, the petitioner is required to be heard in the matter relating to separate possession by metes and bounds of the suit property. In this view of the matter, in my considered opinion, the learned trial Court committed a serious error in rejecting the application filed by the petitioner.

For the foregoing reasons, the petition is allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

February 08, 2016.

Davinder Kumar