

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

**CR No.5403 of 2016 (O&M)
Decided on.30.08.2016.**

Sant Bikramjit Singh

.....Petitioner

Versus

Sant Sohan Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sarwan Singh, Sr. Advocate
with Mr. N.S.Rapri, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 06.05.2016 passed by the learned District Judge, Ropar, vide which the application moved by Mahant Santokh Singh and Charanjit Singh claiming themselves to be Chelas of deceased Sant Sohan Singh and bringing them on record as legal representatives of deceased Sant Sohan Singh has been allowed.

2. Learned counsel for the petitioner contended that deceased-Sant Sohan Singh has filed the suit for declaration against the petitioner and one Avtar Singh to the effect that he was owner in possession of the land in dispute on the ground that he was Chela of Sant Ram Singh. Defendant no.2-Avtar Singh also claimed himself to be the Mahant of the Dera. The suit filed by Sant Sohan Singh was dismissed and he had filed the appeal. During the pendency of the appeal said Sant Sohan Singh has

died. Learned counsel for the petitioner further contended that deceased-Sant Sohan Singh had no right, title or interest in the suit property. His suit has already been dismissed by the learned trial Court. He contended that respondents have been allowed to be impleaded as legal representatives of deceased-Sant Sohan Singh without holding the inquiry as required under Order 22 Rule 5 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'). Thus, he contended that the impugned order is illegal. To support his contentions he has relied upon cases **Mangluram Dewangan Vs. Surendra Singh and others 2011(3) R.C.R.(Civil) 879, Bimla Devi Vs. Piao Dharamsala Ganga Sahai Wali AIR 1993(2) All India Land Laws Reporter 14 and Shantilal Thakordas and others Vs. Chimanlal Maganlal Telwala AIR 1976 Supreme Court 2358.**

3. I have duly considered the aforesaid contentions.

4. Order 22 Rule 5 C.P.C reads as under;-

“5. Determination of question as to legal representative.- Where a question arises as to whether any person is or is not the legal representative of a deceased plaintiff or a deceased defendant, such question shall be determined by the Court:

Provided that where such question arises before an Appellate Court, that court may, before determining the question, direct any subordinate court to try the question and to return the records together with evidence, if any, recorded at such trial, its findings and reasons there for, and the Appellate Court may take the same into consideration in determining the question.”

The aforesaid provision of law shows that the inquiry under Order 22 Rule 5 CPC is only required when a question arises as to whether any person is or is not the legal representative of the deceased-plaintiff or deceased-defendant then that question has to be determined by the Court. But, here in this case, there is no such dispute between the legal representatives of appellant Sant Sohan Singh. Both applicants i.e.

Mahant Santokh Singh and Charanjit Singh are claiming themselves to be the legal representatives of deceased-Sant Sohan Singh and both of them have been ordered to be impleaded by the learned District Judge.

5. Petitioner has contested the application only on the ground that the property in dispute was of the Dera and was not the personal property of Sant Sohan Singh which is a question to be determined on merits of the case. So, this Court does not find any legal infirmity in the impugned order. Cases relied upon by learned counsel for the petitioner are quite distinguishable on facts. In **Mangluram Dewangan's case (Supra)**, on making the inquiry it was found that the applicant was not the legal representative of deceased-plaintiff. In **Bimla Devi's case (Supra)** the suit was filed by the trust through its Manager. Said Manager has died during the pendency of the suit and the Court has brought on record his sons as legal representatives. Admittedly, the suit was not filed by the Manager in his personal capacity. So, his natural heirs cannot be impleaded as legal representatives. Rather, a person authorized by the trust could have pursued the suit. **Shantilal Thakordas's case (Supra)** was entirely on different facts. In that case an eviction suit was filed on the ground of the personal necessity of the landlord and his family members. The landlord has died during the pendency of the case and thereafter, a new firm was constituted. It was held that the ground of personal necessity was not available to the new firm.

6. Moreover, in the impugned order, the learned District Judge has categorically mentioned that respondents have only been brought on record as legal representatives of deceased-Sant Sohan Singh just to pursue the appeal. Their rights are to be adjudicated in a separate proceeding, if going to be initiated by them.

7. Thus, keeping in view my aforesaid discussion, I do not find any illegality in the impugned order passed by the learned trial Court, which does not call for any interference by this Court.

8. Thus, the present revision petition having no merits, is hereby dismissed.

30.08.2016

S.khan

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No