

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

CR No.6678 of 2016(O&M)

Date of decision:24.10.2016

Gurbachan Singh Uppal

....Petitioner

VERSUS

Kamlesh Kumari and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rohit Khullar, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

The present petition has been directed against order dated 22.08.2016 (Annexure P-3) passed by the Additional Civil Judge (Senior Division), Chandigarh whereby application filed by the petitioner under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (in short 'CPC') for being impleaded as a party in the proceedings for issuance of Letter of Administration qua Will dated 18.09.2014 purported to be executed by Sh. Kuldip Singh Bhandari, has been dismissed.

Counsel for the petitioner would contend that House No.3098, Sector 22-D, Chandigarh was previously owned by Smt. Charanjit Kaur, sister of the petitioner and she passed away on 09.01.1991. After her death, house was never transferred in the name of Sh. Kuldip Singh Bhandari, her husband. Further submission made by counsel is that as the petitioner was the only person who looked after Smt. Charanjit Kaur and her husband Sh. Kuldip Singh Bhandari and he is the Class II heir of Smt. Charanjit Kaur, being her brother, he is entitled to contest the proceedings initiated under

Section 278 of the Indian Succession Act for grant of Letter of Administration in respect of registered Will dated 18.09.2014 purported to be executed by Sh. Kuldip Singh Bhandari qua House No.3098, Sector 22-D, Chandigarh as well. It is further submitted that the trial Court has committed a serious error rather illegality in non-suiting entitlement of the petitioner to be impleaded as a party and contest the proceedings.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned (Annexure P-3).

Be that as it may, it is an undisputed position of the case that Smt. Charanjit Kaur, alleged erstwhile owner of House No.3098-Sector 22-D, Chandigarh, passed away in the year 1991 and left behind her husband Sh. Kuldip Singh Bhandari. As per settled position in law, inheritance never remains in abeyance, therefore, property left behind by Smt. Charanjit Kaur was to be inherited by her heirs on the basis of natural or testamentary succession, as the case may be. It is also not disputed that Smt. Charanjit Kaur left behind no other class I heir except her husband. As the estate left behind by Smt. Charanjit Kaur was inherited by her husband and the question in the present proceedings is qua issuance of Letter of Administration in respect of the registered Will purported to be executed by Sh. Kuldip Singh Bhandari and the petitioner does not claim any right of inheritance to Sh. Kuldip Singh Bhandari, the Court below has rightly declined his prayer to be impleaded as a party or providing an opportunity to contest the proceedings. In this view of the matter, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in *limine*.

However, nothing stated in this order shall be construed as an expression of opinion on merits of the case.

OCTOBER 24, 2016		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no