

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

C.R. No.7450 of 2016

Date of Decision.08.11.2016

Kalyan Singh (since deceased) through LRsPetitioner

Vs

Sarmukh Singh (since deceased) through LRsRespondents

Present: Mr. A.S. Jawandha, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J. (ORAL)

The petitioner-defendant No.10 is aggrieved of the impugned order whereby the application at the instance of defendant Nos.4 to 6, being sons of Sarmukh Singh, plaintiff No.1 for transposition as plaintiffs on his death on 07.01.2011, has been allowed.

Mr. A.S. Jawandha, learned counsel appearing for the petitioner submits that the application was highly belated and was not filed under the correct provisions of law. Even if there is no limitation for filing application then residuary provisions of Article 137 of the Limitation Act would apply and the application should have been filed under Order 22 Rule 10 CPC, thus, the order under challenge is not sustainable in the eyes of law.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that the applicants in the application (Annexure P-1) are the children of Sarmukh Singh. He had filed the suit for declaration of land measuring 13 kanals 10 marlas being owner in possession and for grant of permanent injunction. The transposition of defendant Nos.4 to 6 as plaintiffs would always be under Order 1 Rule 10

CPC. The application should have also referred to the provisions of Order 22 Rule 3 CPC. It is settled law that non-mentioning of the correct provisions of law would not be fatal and the application on this ground should not have been dismissed.

For the foregoing reasons, I am of the view that the order under challenge is perfectly legal and justified, much less, the order cannot be said to be passed without jurisdiction. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

November 08, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No