

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

Civil Revision No.7469 of 2016

Date of Decision: November 08, 2016

Shakuntla Devi

...Petitioner

Versus

Sher Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Hardip Singh, Advocate,
for the petitioner.

AMIT RAWAL, J.(Oral)

Petitioner is aggrieved of the non-impleadment as defendant in Civil Suit No.186 of 2013 seeking separate possession by way of partition in respect of the land on the ground that she is born out of the loins of Inder Singh and Ram Rakhi, who, after the death of Inder Singh, married to Chattra @ Chattar Singh and defendant-respondents are children born from Chattar Singh and Ram Rakhi. On demise of Chattar Singh, defendants have got the mutation of the entire property including that of the share of Inder Singh sanctioned in their favour. One of the defendants filed a suit for declaration regarding the suit property in which the petitioner filed written statement and counter claim, but the same were not considered and the suit was decided on 5.10.2011. The appeal filed by the petitioner against the said judgment was also dismissed. However, the suit seeking declaration that the petitioner is entitled to 1/4th share qua the estate of Inder Singh to which he had ½ share as Inder Singh and Chattar Singh were having ½ share being brothers, is stated to be pending.

Mr.Hardip Singh, learned counsel for the petitioner submits

that no prejudice would be caused to the respondents in view of the aforementioned fact and she would be able to assert her share/right in the aforementioned pending suit.

I have heard the learned counsel for the petitioner, appraised the paper book and of the view that unless and until the suit filed by the petitioner seeking declaration that she is owner in possession to the extent of 1/4th share in the estate of Inder Singh is not established, she would not be treated as a co-sharer as in a suit for partition, only a co-sharer can be proper and necessary party and not the third party. Unless and until the petitioner succeeds in her suit, she would not be a necessary party and rightly so, the application has been declined.

For the foregoing reasons, there is no illegality and perversity in the impugned order. No case for interference is made out.

Revision petition stands dismissed.

However, this order shall not preclude the petitioner to seek transfer of her suit with the suit aforementioned in case it is pending before civil Court.

November 08, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No