

CR-7635-2015(O&M)

1

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-7635-2015(O&M)

Date of decision : 12.01.2016

Sewak Manjit Singh

... Petitioner

Versus

Sukhdarshan Singh and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R. S. Rainoo, Advocate
for the petitioner.

Mr. S.S.Rangi, Advocate
with Mr. A. S. Sidhu, Advocate
for the respondents.

REKHA MITTAL. J.(ORAL)

The present petition lays challenge to orders dated 30.07.2015 and dated 10.09.2015 whereby the trial Court has dismissed the application filed by the petitioner (defendant in the suit) under Order 22 Rule 5 of the Code of Civil Procedure (in short 'CPC') for transposing the petitioner as LR of deceased Daljeet Kaur and the order vide which respondent Sukhdarshan Singh has been allowed to be impleaded as legal representative of deceased Daljit Kaur for the purpose of present lis and order dated 10.09.2015 whereby his application for recalling order dated 30.07.2015 in application under Order 22 Rule 5 CPC filed by him has been dismissed.

Daljit Kaur (since deceased) filed a suit against the present petitioner and Gursharanjit Singh respondent No.2 challenging the decree dated 16.10.1995 passed in civil suit No.189 of 1995 on the premise that Sewak Manjit Singh and Gursharanjit Singh sons of Albel Singh (defendants therein) have obtained the decree fraudulently in collusion and connivance with each other. During pendency of the suit, Ms.Daljit Kaur passed away and as a result there was dispute in regard to the person who will represent said Daljit Kaur in the pending case. One application was filed by the petitioner (defendant No.1) for transposing him as legal representative of deceased Daljit Kaur and the other application was filed by Sukhdarshan Singh being one of the legal heirs of deceased Daljit Kaur.

Counsel for the petitioner contends that Smt.Daljit Kaur executed a registered Will dated 14.12.2004 in favour of the petitioner, therefore, he is entitled to represent Smt. Daljit Kaur in the pending suit. It is further argued that in the suit filed by Smt. Daljit Kaur, the petitioner has filed written statement admitting her claim and therefore, he has no adverse interest against pleas raised by Smt. Daljit Kaur.

Another submission made by counsel is that Sukhdarshan Singh has close affinity / relationship with Gursharanjit Singh, therefore, he may not pursue the case in right direction.

Counsel for respondent No.1 Sh. S. S. Rangi, Advocate would submit that in the written statement filed by the petitioner, he has

not admitted the factum of fraud and collusion between him and his brother while obtaining a collusive decree against Smt. Daljit Kaur. It is further argued that respondent No.1 has neither any interest adverse to Smt. Daljit Kaur nor he is favourably inclined towards Sh. Gursharanjit Singh, respondent No.2.

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

Concededly, the court below has not recorded any finding in regard to correctness and genuineness of the Will propounded by the petitioner. Smt. Daljit Kaur filed the suit against the defendants including the petitioner levelling serious allegations of fraud and collusion in obtaining decree dated 16.10.1995 in respect of land measuring 257 kanals 10 marlas. As Smt. Daljit Kaur has levelled allegations against the petitioner that he is a privy to the fraud committed by the defendants, no fault can be found in the orders passed by the Court rejecting his claim to represent Smt. Daljit Kaur in the pending suit. Though the petitioner has admitted the claim that the impugned decree is the result of fraud but he has not admitted the allegations of fraud and collusion qua him and has tried to shift the burden upon his brother Gursharanjit Singh. There is no material on record at this stage to accept the submissions of the petitioner that Sukhdarshan Singh respondent No.1 impleaded as legal representative of Smt. Daljit Kaur would not pursue the proceedings in earnestness. This apart, the petitioner is one of the parties to the litigation and he would be at liberty to file an appropriate application before the

trial Court in case, at any stage, he has a cause to express any grievance against Sh. Sukhdarshan Singh representing Smt. Daljit Kaur. I do not find any error much less illegality in the impugned orders as would call for intervention.

For the reasons aforesaid, the petition is dismissed. No order as to costs.

(REKHA MITTAL)
JUDGE

January 12, 2016.
Davinder Kumar