

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

CR No.7828 of 2016(O&M)

Date of decision:21.11.2016

Baljit Singh

....Petitioner

VERSUS

Surjit Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sahil Khunger, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

CM No.23484-CII of 2016

Prayer in this application filed under Order 22 Rules 1 and 2 of the Code of Civil Procedure, 1908 is for bringing on record the legal representatives of respondent- Surjit Kaur (since deceased), statedly passed away on 08.05.2015.

In view of averments made in the application supported by an affidavit of Baljit Singh, the petitioner, the application is allowed and the persons mentioned in para 4 of the application are allowed to be brought on record as legal representatives of deceased- Surjit Kaur (respondent No.1) for the purpose of present *lis*, subject to all just exceptions.

Amended memo of parties is taken on record.

Disposed of accordingly.

CR No.7828 of 2016

The present petition directs challenge against order dated 13.10.2016 (Annexure P-3) passed by the Additional District Judge, Ludhiana whereby an application filed by the petitioner under Order 6

Rule 17 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking amendment in plaint and grounds of appeal has been dismissed.

Counsel for the petitioner has submitted that Smt. Surjit Kaur, mother of the petitioner, passed away on 08.05.2015. At the time of performance of last rites of Smt. Surjit Kaur, when all the relatives including Sh. Baldev Singh son of Kesar Singh, brother of Surjit Kaur and Charanjit Singh son of Sh. Santa Singh brother of Ajaib Singh came and discussed relationship of the parties, the petitioner came to know that respondents No.3 and 4 therein are not the daughters of Sh. Ajaib Singh and they had been born out of the previous wedlock of Smt. Surjit Kaur with Amir Chand. It is further submitted that keeping in view the facts that came to knowledge of the petitioner during pendency of the appeal, it has become necessary to strike off the names of Smt. Surjit Kaur (respondent No.1), Manjit Kaur and Surinder Kaur from the array of defendants/respondents.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

Be that as it may, it is an undisputed position of the case that Sh. Ajaib Singh, predecessor-in-interest of the petitioner, passed away in the year 1991. It is not denied that Smt. Surjit Kaur is the widow of late Sh. Ajaib Singh and the petitioner and Bharpur Singh were born out of the wedlock of Smt. Surjit Kaur and Ajaib Singh. Assuming though not admitting that Smt. Surjit Kaur was earlier married to one Amir Chand, nevertheless, after her marriage with Ajaib Singh, she became class-I heir of deceased Ajaib Singh. Surjit Kaur being class-I heir of Ajaib Singh became entitled to inherit to the estate of Sh. Ajaib Singh in view of provisions of the Hindu Succession Act, 1956. Smt. Surjit Kaur has also

passed away, therefore, all the children of Smt. Surjit Kaur being her class-I heirs shall be entitled to inherit to the estate of Smt. Surjit Kaur. That being so, the petitioner cannot claim that Surjit Kaur, Manjit Kaur and Surinder Kaur are required to be deleted from the array of respondents/defendants.

In view of the above, intervention in the impugned order is not warranted, thus, the petition fails and is accordingly dismissed in *limine*.

NOVEMBER 21, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no