

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 933 of 2016 (O&M)
Date of decision : February 8, 2016

Gurdip Singh

..... Petitioner

Versus

Karam Singh(deceased) through L.Rs and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R. S. Athwal, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The petitioner-plaintiff is aggrieved of the order dated 24.12.2015 whereby during the pendency of the suit Karam Singh died and left behind Will dated 14.11.2013 in favour of defendant No.2-Gurdev Kaur, who is none else but daughter of Karam Singh and sister of the petitioner-plaintiff.

Learned counsel for the petitioner submits that the order allowing the application impleading Gurdev Kaur as the only legal representative of Karam Singh would seriously affect the rights of the petitioner. Since the claim in the suit is with regard to nature and character of the property being ancestral at the hands of Karam Singh. In case, the petitioner-plaintiff succeeds then Will can be treated only qua his share, if otherwise, then they would have no right

regarding the estate of Karam Singh being the property not ancestral in nature, therefore, it should be clarified that the petitioner-plaintiff would also be the legal representative subject to the aforementioned conditions.

I have heard learned counsel for the petitioner and appraised the paper book.

It is a matter of record that the petitioner is son of Karam Singh. Since he has filed the suit for declaring the property at the hands of Karam Singh being ancestral, on this ground challenged the transfer effected during his life time, stated to be without legal necessity. The factum of character and nature of the property being ancestral shall be proved during the evidence. In case, the plaintiffs are able to prove the property being ancestral then the Will would be only deemed to be viz-a-viz share of Karam Singh, if otherwise, then the plaintiff would have some right.

I refrain myself from remanding the matter to the trial court directing it to hold enquiry under Order 22 Rule 5 CPC as it would protract the decision of the suit as the factum of parentage of the plaintiff has not been denied.

With the aforementioned observations, the impugned order is modified.

The revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

February 8 , 2016
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