

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

CR No.1347 of 2017 (O&M).

Date of Decision: 27.02.2017.

Mohan Lal Batra (now deceased) through his L.Rs. and others

....Petitioners.

VERSUS

Rahul Batra and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Lakhwinder Singh Mann, Advocate for the petitioners.

SNEH PRASHAR, J.

CM-4107-CII-2017

Allowed, as prayed for.

CR-1347-2017

The petitioner aggrieved of the order dated 20.01.2017 passed by learned Additional Civil Judge (Senior Division), Nakodar allowing the application under Order I Rule 10 read with Section 151 of the Code of Civil Procedure (for short, "CPC") and the application under Order VI Rule 17 read with Section 151 CPC filed by the respondents, has preferred the instant revision petition.

The respondents had filed a suit for partition impleading class-I legal heirs of deceased Raj Rani as well as her husband Mohan Lal Batra. It was submitted that inadvertently the respondents failed to implead Shefali daughter of Yogesh Batra, the predeceased son of Raj Rani and

disinherited from the family before his death and therefore, the facts relating to him were not shared with the counsel at the time of drafting of the plaint. However, during the trial of the case, it surfaced that Yogesh Batra had a daughter 'Shefali' and wife 'Kanchan', but they had left the family in the year 2000 and were residing at village Mehatpur, Tehsil Nakodar, District Jalandhar. After the death of Yogesh Batra, Kanchan remarried in 2005 and Shefali, who was born on 13.12.1992, was living under the care and custody of her maternal grandfather namely, Ramesh Setia and is now major. Submitting that although due to disinheritance and total cessation of Yogesh Batra from the family of Raj Rani, Shefali or Kanchan may not have any right, title or interest in the property in question, but they would be necessary party to the suit for proper adjudication of the same as Yogesh Batra was born out of the wedlock of Mohan Lal Batra and Raj Rani. Accordingly, impleading of Shefali and Kanchan was sought by the respondents.

Though the petitioners resisted the applications, filed by the respondents, raising various objections, but considering the submissions made on behalf of the respondents and the petitioners, learned trial Court allowed both the applications.

The submissions made by Mr. Lakhwinder Singh Mann, learned counsel for the petitioners have been considered.

Learned counsel for the petitioners argued that at the time of institution of the suit, it was in the knowledge of the respondents that Yogesh Batra was also son of Raj Rani and Mohan Lal Batra and that he was disinherited from the family and the property owned by his parents on

when the instant application for amendment in the plaint as well as for impleading the legal heirs of Yogesh Batra as party to the suit was filed. By allowing the applications, learned trial Court has reopened the trial and the order is illegal and liable to be set aside.

It is not disputed by the petitioners that Yogesh Batra was born out of the wedlock of Raj Rani and Mohan Lal Batra. The suit had been filed for partition of the property left by Smt. Raj Rani. In a suit for partition, all co-owners have to be impleaded. Yogesh Batra was a class-I legal heir of Raj Rani. The fact whether his legal heirs Shefali and Kanchan would not be entitled to share in the property or not for the reason that Yogesh Batra was allegedly disinherited from the property by his parents during his lifetime, would be a matter of evidence and an issue to be decided by the Court, but impleading of his legal representatives is necessary for proper and complete adjudication of the case and to avoid multiplicity of litigation. No doubt, the applications were filed at a later stage but merely on that ground the applications could not be dismissed. For the delay caused, learned trial Court has already compensated the opposite party.

In the above premise, finding no illegality or perversity in the order of learned trial Court allowing the applications and there being no ground for intervention by this Court, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

27.02.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**