

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

CR No.1624 of 2017 (O&M)

Date of decision: March 06, 2017

Bhoop Singh and others

...Petitioners

Versus

Amar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Pankaj Mehta, Advocate
for the petitioners.

JASPAL SINGH, J.(ORAL)

Through the instant petition preferred under Article 227 of Constitution of India, petitioners have sought setting aside the order dated 22nd February, 2017 passed by learned Civil Judge(Senior Division), Siwani (Bhiwani) whereby an application moved under Order XXXII, Rule 3 read with Section 151 of Code of Civil Procedure filed by the petitioners/plaintiffs, has been dismissed.

A glance at the aforesaid impugned order transpires that the application has been dismissed simply on the ground that suit is listed for rebuttal evidence as well as for arguments and further that there is no reason why the other defendants did not disclose about the factum of the minority of Rakesh defendant No.9(e).

The contention of learned counsel for the petitioners is that the factum of minority of defendant No.9(e) was neither in the knowledge of the petitioners/plaintiffs nor it was ever disclosed by any of the respondents/defendants. Moreover, brother of Rakesh-defendant No.9(e) i.e. Vinod respondent No.9(c) in the instant petition who had received the summons/notice on behalf of his brother Rakesh but these are not the legal

ground for declining an application moved under Order XXII, Rules 2 and 3 of the Code because if the legal guardian of the minor person is not appointed, it would not only cause prejudice to the petitioners/plaintiffs but that too also to the respondents/defendants in either of the cases whether the suit is decreed or dismissed.

Thus, this Court is of the considered view that the impugned order is not sustainable in the eyes of law. As such, the same is *set aside* and consequently, application stands allowed. Trial Court is directed to appoint legal guardian of Rakesh defendant No.9(d) in the complaint.

Accordingly, instant petition stands disposed of. If the respondents/defendants are still aggrieved of this order, they may approach this Court.

March 06, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No