

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1664 of 2017

Date of Decision:07.03.2017

Daulat Ram(deceased) through LR Pawan KumarPetitioner

Versus

**Smt.Agyawanti Banga(deceased) through
LRs and others**Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

**Present: Mr.Surinder Mohan Sharma, Advocate,
for the petitioner.**

RAMESHWAR SINGH MALIK, J.(Oral)

Present revision petition, at the hands of defendants, is directed against the order dated 16.01.2017 passed by the learned trial Court, whereby application under Order 22 Rule 5 of the Code of Civil Procedure (for short “the CPC”), was allowed.

Heard learned counsel for the petitioner.

Facts of the case are hardly in dispute. A bare reading of the impugned order would show that the learned trial Court has rightly passed the impugned order, which has been found in consonance with the law laid down by the Hon'ble Supreme Court as well as this Court. Defendant No.4 moved the application under Order 22 Rule 5 CPC, for deleting her name from the array of defendants, permitting her to represent her mother Smt.Agyawanti Banga-plaintiff. Under the peculiar facts and circumstances of the case, learned trial Court has been found well within its jurisdiction to

pass the impugned order and the same deserves to be upheld.

It is neither pleaded nor argued case on behalf of the petitioner that the application moved under Order 22 Rule 5 CPC was filed at a belated stage or it was barred by limitation. Learned trial Court, while passing the impugned order has rightly left the issue to be decided on merits at an appropriate stage, about the *inter se* rights of the parties. This approach adopted by the learned trial Court has been found well justified for the reason that merits of the case would be appropriately decided by the learned trial Court, on the basis of evidence produced by the parties. That stage is yet to come.

The abovesaid view taken by this Court also finds support from the following judgments of the Hon'ble Supreme Court and different High Courts, including this Court:-

(i) *Harihar Prasad Singh and others Versus Balmiki Prasad Singh and others*, 1975 AIR (SC) 733;

(ii) *Rattan Bansal and others Versus Vishranti City Residents Welfare and others*, (Civil Appeal No.349 of 2017), decided on 11.01.2017;

(iii) *Jaladi Suguna (Dead) through LRs Versus Satya Sai Central Trust and others*, 2008(8) SCC 521;

(iv) *Roni Adi Tarapurwala and another Versus Dinshaw Adarji Tarapurwala since deceased, through LRs and others*, 2012(34) RCR(Civil) 545;

(v) *G.V.Kishore Reddy Versus R.Venugopal Rao*, 2004 AIR (A.P.) 498; and

(vi) *Sunil Kumar Jain Versus Abdul Karim*, 1992(1) RCR(Rent) 136.

In view of what has been discussed hereinabove, this Court feels no hesitation to conclude that the learned trial Court has committed no error of law, while passing the impugned order and the same deserves to be

upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has not been found suffering from any patent illegality or perversity, the same deserves to be upheld. The present revision petition has been found wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the instant revision petition stands dismissed, however, with no order as to costs.

March 07, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No