

Civil Revision No. 2071 of 2015

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

Civil Revision No. 2071 of 2015

Date of decision: 13.1.2017

Bhupinder Kaur and another

... Petitioners

Vs.

Hans Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Lalit Pathak Advocate
for the petitioners.

Mr. Saurabh Kaushik, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 3.3.2015 (Annexure P-2) passed by learned trial court, granting conditional leave to the defendant to contest the suit, subject to furnish indemnity bonds to the tune of ₹1 lac and ordering to treat the suit as summary in nature, defendants have approached this Court by way of present revision petition.

Notice of motion was issued and interim stay was granted.

Heard learned counsel for the parties.

Placing reliance on the judgment of Delhi High Court in **Sarla Devi Vs. Shri Daya Ram, 1995 (57) DLT 126**, learned counsel for the petitioner submits that the impugned order is patently illegal, as learned trial

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court exceeded its jurisdiction, while passing the impugned order. He prays for setting the impugned order, by allowing the present revision petition.

When confronted with the abovesaid factual as well as legal aspect of the matter, learned counsel for the respondent had no answer and rightly so, it being a matter of record. However, he prays for a direction to learned trial court to decide the suit expeditiously.

In view of the abovesaid undisputed fact situation obtaining on record of the present case, contentions raised by learned counsel for the petitioners have been found worth acceptance. The impugned order has been found running counter to the law laid down in Sarla Devi's case (supra), thus, it cannot be upheld.

It is not in dispute that defendant-petitioners are legal representatives of late Sh. Mukand Singh. Once it is so, the suit could not have been treated as summary suit, because defendants-petitioner, being legal representatives of late Sh. Mukand Singh, cannot be held straightway liable. Having said that, this Court feels no hesitation to conclude that the condition imposed by learned trial court vide the impugned order was wholly unjustified. The suit deserves to be tried as an ordinary suit and onus would be on the plaintiff to prove his case by leading cogent evidence.

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 present revision petition deserves to be accepted. Consequently, impugned order dated 3.3.2015 (Annexure P-2) passed by learned trial court is hereby set aside. It is directed that suit of the plaintiff shall be tried as ordinary suit.

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However, request made by learned counsel for the respondent for expeditious trial having been found to be genuine, learned trial court is directed to decide the suit expeditiously, in accordance with law.

With the abovesaid observations made and directions issued, present revision petition stands disposed of, however, with no order as to costs.

13.1.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No