

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

266

CR-2259-2015

Date of Decision:21.08.2017

Hazara Singh and others

.....Petitioners

Versus

Satnam Singh and others

.....Respondents

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

**Present: Mr.Satbir Rathore, Advocate,
for the petitioners.**

**Mr.R.S.Chauhan, Advocate,
for respondent Nos.2, 8, 11, 13, 14 to 16,
18, 20, 21 and 23 to 33.**

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the order dated 18.03.2015 (Annexure P-6) passed by the learned trial court, whereby application (Annexure P-3) moved under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure (for short "the CPC") for impleading the legal representatives of defendant No.6-Tarsem Lal was dismissed, plaintiffs have approached this Court by way of instant revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued and passing of the final order was stayed.

Heard learned counsel for the parties.

Learned counsel for the petitioners, at the very outset, fairly states that although under the circumstances of the case, petitioners ought to have been more vigilant in moving the application for bringing on record the legal representatives of defendant No.6 at an early date yet allowing such application by the learned trial court would not be going to cause any kind of prejudice to the defendants.

The contention raised by learned counsel for the petitioners has been found justified and worth acceptance for the reason that no further evidence was required to be led by either of the parties. In fact, the application moved by the petitioners vide application Annexure P-3 should have been allowed by the learned trial court instead of dismissing the same vide impugned order. Further, no prejudice of any kind, whatsoever, is going to be caused to the defendants. However, since the learned trial court could not appreciate this material aspect of the matter, while passing the impugned order, the same cannot be sustained.

During the course of hearing, learned counsel for the respondents could not raise any meaningful argument in support of the impugned order passed by the learned trial court and rightly so, it being a matter of record.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every court of law must make an endeavour to grant sufficient and reasonable opportunity to both the parties to the litigation to put-up their best case before the Court. Adopting such a course by a learned court of competent jurisdiction will not only avoid multiplicity of litigation but also facilitate the learned court to arrive at a

judicious conclusion, with a view to do substantial justice between the parties. However, in the instant case, since the learned trial Court also failed to appreciate this aspect of the matter, while passing the impugned order and the same cannot be sustained.

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 opinion that since the impugned order has been found suffering from patent illegality, it cannot be sustained. Consequently, impugned order dated 18.03.2015 (Annexure P-6) passed by the learned trial Court is hereby set aside. Application moved by the plaintiffs-petitioners under Order 1 Rule 10 read with Section 151 CPC, for permission to implead the legal representatives of defendant No.6-Late Sh.Tarsem Lal would stand allowed. The learned trial Court shall proceed further with the suit to decide the same at an early date.

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

August 21, 2017
seema

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No