

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT  
CHANDIGARH**

**CR No.2528 of 2017  
Date of decision:7.4.2017**

Kulwinder Singh Jhamb

...Petitioner

**Versus**

Kulwinder Kaur Dhillon and others

...Respondents

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

**Present:** Mr.Dinesh Sharma, Advocate for the petitioner.

**RAMESHWAR SINGH MALIK, J. (Oral)**

Present civil revision petition, filed under Article 227 of the Constitution of India, is directed against the impugned judgment and decree dated 8.2.2017 passed by the learned Additional District Judge, whereby first appeal of unsuccessful petitioners, in a petition under Section 372 of the Indian Succession Act, 1865, ('the Act' for short) was allowed, setting aside the impugned judgment dated 12.9.2014 of the learned trial Court and consequently Succession Certificate was issued in the names of respondents No.1 to 3.

Brief facts of the case, as noticed by the learned first appellate Court in paras 6 to 10 of its impugned judgment, are that the appellants approached the learned trial Court on the averments that appellants and proforma respondent No.4 were related to Verinderjit Singh Dhillon. Verinderjit Singh Dhillon died on 26.10.2008. During his lifetime, Verinderjit Singh Dhillon got a joint deposit of Rs.20 lakhs on 03.11.2007 in his name and in the name of respondent No.3 and its mode of operation was "Former or Survivor" (Verinderjit Singh & Kulwinder Singh Jhamb).

The petitioners and proforma respondent No. 4, being the legal heirs of Verinderjit Singh Dhillon, were entitled to the amount due, as Verinderjit Singh Dhillon had no other legal heir except the petitioners and proforma respondent No.4 as the parents of Verinderjit Singh Dhillon had predeceased him. It would be pertinent to mention here that the proforma respondent no.4 had earlier sued through his mother as the next friend and guardian.

It was also stated that deceased Verinderjit Singh along with his family i.e. petitioners had been living in Canada and Kulwinder Singh Jhamb i.e. respondent No.3 was a dear friend of the deceased. Deceased Verinderjit Singh Dhillon was unable to operate this account, because he was residing abroad and he had faith in respondent No.3 and as such the fixed deposit was made in the joint name and the entire amount of 20,00,000.00 (twenty lakhs) had been paid by Verinderjit Singh Dhillon. The petitioners were accordingly entitled to the amount from the bank with interest as payable.

However, respondent No.3 with a malafide intention, threatened to receive the entire amount being the survivor for which he was not entitled or any amount out of fixed deposit account.

The officials of respondent No. 2, when contacted, expressed their inability to help them in the matter and also directed the petitioners to get succession certificate and it was also informed that respondent No.3 survivor had raised dispute about payment of joint fixed deposit.

Having been served in the petition under Section 372 of the Act, respondent-Bank as well as present petitioner appeared and filed their separate replies, raising more than one preliminary objections. Replications

were filed

On completion of pleadings of the parties, learned trial Court framed the following issues:-

1. Whether the petitioners are entitled to grant of succession certificate in their favour in respect of amount fully mentioned in the head note of petition? OPP
2. Whether the petitioners have no locus standi? OPR
3. Whether the petition is not maintainable in the present form? OPR
4. Whether the petition is false and frivolous to the knowledge of petitioner? OPR
5. Relief.

With a view to substantiate their respective stands taken, both the parties led their documentary as well as oral evidence. After hearing the learned counsel for the parties and going through the evidence brought on record, the learned trial Court came to the conclusion that the petitioners in the petition under Section 372 of the Act were unable to prove their pleaded case. Accordingly, petition under Section 372 of the Act was dismissed by the learned trial Court, vide its impugned judgment dated 12.9.2014.

Feeling aggrieved, respondents No.1 to 3 filed their first appeal, which came to be allowed by the learned Additional District Judge, vide his impugned judgment dated 8.02.2017, thereby issuing Succession Certificate in the names of respondents No.1 to 3 herein. Hence this revision petition.

Heard learned counsel for the petitioner.

Relationship between respondents No. 1 to 3 and deceased-

Verinderjit Singh Dhillon had never been in dispute. It is also not in dispute

that Verinderjit Singh Dhillon died on 26.10/2008, leaving behind his widow-respondent No.1 and his children-respondents No.2 and 3. Deceased Verinderjit Singh Dhillon got a joint fixed deposit of Rs.20 lacs in his name and in the name of petitioner on 3.11.2007, for a period of two years with the respondent-bank. The entire case of the petitioner was based on the mode of operation, which was by Former or Survivor. It is also not in dispute that Former was Verinderjit Singh Dhillon and Survivor was Kulwinder Singh Jhamb i.e. petitioner herein.

The case set up by respondents No.1 to 3 was that the total amount of Rs.20 lacs was paid by Verinderjit Singh Dhillon but he was unable to operate the bank account in India because he was living abroad. So far as the status of respondents No.1 to 3 being the legal representatives of deceased Verinderjit Singh Dhillon is concerned, it has gone undisputed right from day one. Having said that, this Court feels no hesitation to conclude that the learned Additional District Judge committed no error of law, while passing the impugned judgment dated 8.2.2017 and the same deserves to be upheld.

In fact, before arriving at his judicious conclusion, the learned Additional District Judge rightly examined, considered and appreciated the true factual as well as legal aspect of the matter, in correct perspective. The relevant and cogent findings recorded by the learned first appellate court in paras 31 to 33 of its impugned judgment, which deserve to be noticed here, read as under:-

*“It was the case of the appellants that they alongwith the proforma respondent no.4 being the legal heirs of Verinderjit Singh Dhillon have staked claim to the amounts lying in the*

*account number 354100PQ00000419, Customer ID No.FGE002387, with the respondent no.2, Punjab National Bank, Rajpura Town, B/O 354100 the date of deposit is 3.11.2007 and date of maturity is 3.11.2009, for two years, with interest @ 8.5% P.A., on the ground that they are the legal heirs of the deceased Verinderjit Singh. The Learned Trial Court had held that the appellants had failed to prove that the parents of Verinderjit Singh Dhillon had also died but this Court has, vide order of even date, allowed the Death Certificates to be taken on record. Even though it is argued that the death certificates have not been proved by examination of the official concerned, but this Court is of the view that the death certificate issued by the appropriate authority is admissible in evidence without examination of the official concerned. As such, the objection of the respondent that the death certificates are not proved is without and legal basis. A certificate issued by the Registrar (Births and Death) under the Deaths Registration Act is a Public document and unless the contrary is proved on record, the same are deemed to have been duly issued.*

*Coming to the arguments of the respondent that appellant No. 1 had been divorced from Verinderjit Singh Dhillon, this Court is of the view that in the plea that has been raised by the respondent no.3 admits of the fact that the appellant no.1 was the wife of the deceased Verinderjit Singh Dhillon and as has been argued by the counsel for the appellant, if at all the marriage was dissolved the onus to prove the same was upon the respondent no.3 but no evidence in this regard has been adduced. As such, the respondent no. 3 has failed to prove that the appellant no. 1 is not the legal heir of the deceased Verinderjit Singh Dhillon.*

*Now the assertions of the parties as regards the fact whether the entire amount had come from the deceased or that half or even the entire amount had come from the pocket of the*

*respondent no.3. Whereas the appellants have proved on record documents to indicate that the account was indeed opened by Verinderjit Singh Dhillon and the sum of Rs.20,00,000.00 was also deposited into it, it can be said by the preponderance of possibilities that the amount had indeed been made available by the deceased Verinderjit Singh Dhillon. It may be mentioned here that it is the case of the respondent no.3 that he had paid some part of the amount but in spite of the fact that he admittedly runs a business, no documentary evidence as regards the source of the amount which was his contribution has been adduced and that it warrants an adverse inference to be drawn.”*

During the course of hearing, when asked to refer to any material, even remotely suggesting that the petitioner also contributed any amount for the purpose of fixed deposit, learned counsel for the petitioner had no answer and rightly so, it being a matter of record. In such a situation, it can be safely concluded that respondents No.1 to 3, being the nominees of deceased-depositor, would have exclusive right to receive the amount lying in the fixed deposit with the respondent-bank. So far as the petitioner is concerned, admittedly, he was not legal representative of the deceased. Under these undisputed facts and circumstances of the case, it can be safely concluded that the impugned judgment does not suffer from any patent illegality and the same deserves to be upheld, for this reason also.

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

1. ***Smt.Sarbati Devi and another Vs. Smt.Usha Devi, 1984 (1) SCC 424;***
2. ***Vishin N. Khandchandani Vs. Vidya Lacmandas Khanchandani, 2000 (6) SCC 724;***

3. *Ram Chander Talwar Vs. Devender Kumar Talwar, 2010 (10) SCC 671;*
4. *Shipra Sengupta Vs. Mridul Sengupta & others, 2009 (10) SCC 680;*
5. *Sham Singh Vs. Kashmir Kaur and another, 2016 (2) PLR 353 (P&H);*
6. *Muhammedan Vs. Parukutty Amma, 195(1) CivCC 362 (Kerala);*

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned judgment, which may warrant interference, at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned judgment passed by the learned first appellate court has been found based on sound reasons and the same deserves to be upheld, for this reason, as well

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 the instant civil revision petition is 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 civil revision petition stands dismissed, however, with no order as to costs.

**7.4.2017**  
**mks**

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**

Whether Speaking/reasoned : Yes/No  
Whether Reportable : Yes/No