

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

CR No.3204 of 2015 (O&M)

Date of Decision: 13.11.2017

Jaspreet Singh

..Petitioner

Vs.

Tehal Singh and another

..Respondents

CORAM: HON'BLE MR.JUSTICE RAJ MOHAN SINGH

Present: Mr.G.S.Punia, Sr.Advocate with
Ms.Harveen Kaur, Advocate for the petitioner.

Mr.Munish Gupta, Advocate for respondent No.1.

Mr.Sukhtej Singh, Advocate for
Mr.Amit Rana, Advocate for respondent No.2.

RAJ MOHAN SINGH, J.

The petitioner has assailed the order dated 4.7.2014 passed by learned Additional Civil Judge (Sr.Divn.) Jagraon whereby application under Order 22 Rule 4 CPC was declined.

The petitioner is the grand son of deceased-defendant Manjit Kaur. The suit for joint possession was filed by the plaintiff-respondent No.1 against defendant-respondent No.2 on the ground that the plaintiff is entitled for a decree of specific performance on the basis of agreement to sell dated 4.10.2010.

Consequential relief of permanent injunction was also sought.

During the pendency of the suit, Manjit Kaur defendant No.2 died on 15.4.2012. Rajinderpal Kaur daughter of Manjit Kaur i.e. respondent No.2 filed an application for impleading herself as legal representative of Manjit Kaur on 1.5.2012. The said application was allowed by the trial Court vide order dated 17.7.2012. The petitioner subsequently filed an application for impleadment on the strength of registered Will dated 21.4.2011 executed by Manjit Kaur in his favour. The said application has been declined by the trial Court on the premise that the suit is being defended by the earlier legal representative i.e. respondent No.2 and therefore, the application filed by the petitioner was not maintainable.

Learned counsel for the petitioner submits that in such circumstances, proper course would be to bring on record all the legal representatives of deceased Manjit Kaur so as to vouchsafe the interest of all the stake holders and to protect the interest of the property of the deceased for ultimate benefit of the real legal representative. The provision in terms of Order 22 Rule 5 CPC is only for the purpose of bringing legal representatives on record for conducting the legal proceedings. Such a course does not operate as *res judicata* nor inter se disputes between the rival legal representatives would be

settled. Inter se dispute if any, between the legal representatives has to be independently tried and decided in appropriate proceedings. In view of the decision rendered by the Hon'ble Apex Court in ***Suresh Kumar Bansal Vs. Krishna Bansal and another (2010) 2 SCC 162*** it can be held that it would be just and expedient to bring all the legal representatives on record including the legal representatives, who claimed themselves to be owners on the basis of Will or on the basis of natural succession/inheritance so that the estate of the deceased can be represented properly. Inter se disputes between the legal heirs can be left open for the legal representatives to take recourse in order to get their title established on the basis of instrument or on the basis of inheritance, if any.

In view of the above, the revision petition is allowed and the impugned order is set aside. Normal consequences to follow.

13.11.2017
Meenu

(Raj Mohan Singh)
Judge

Whether speaking/reasoned - Yes/No
Whether Reportable - Yes/No