

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.3541-2014 (O&M)

Date of decision: January 10, 2017

Bhag Singh

...Petitioner

Versus

Harminder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Swarn Singh Tiwana, Advocate for the petitioner.
Mr. R.K. Shukla, Advocate for respondents No.7 to 9 & 14.

Rajan Gupta, J.

Present revision is directed against the order dated 29.01.2014, passed by the trial court, whereby application filed by petitioner to withdraw statement made by his counsel on 25.7.2006 and for bringing on record legal heirs of respondent No.1, has been dismissed.

Learned counsel for the petitioner has assailed the order. He submits that counsel for the petitioner/plaintiff before the trial court inadvertently made statement that he did not claim any relief against defendant No.1, who had since expired. However, it is necessary to bring on record legal heirs of defendant no.1 in the suit. He also submits that application filed by defendant No.1 to allow plaintiff to withdraw the suit with permission to file afresh, is still pending before the trial court.

Plea has been opposed by learned counsel appearing for respondents No.7 to 9 & 14. According to him, application was not

maintainable, as date of death of Harminder Singh defendant No.1 has not been disclosed. Moreover, relief against him had already been abandoned by counsel for the plaintiff by making a statement.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears, plaintiff/petitioner filed a suit for declaration regarding land measuring 22 Kanals 15 Marlas, purchased by him from defendant No.1 on 3.9.1993. He prayed that mutation No.427 sanctioned in favour of the plaintiff regarding share of Devender Kaur, be declared null and void. He also sought consequential relief of permanent injunction restraining the defendant/respondents from dispossessing the plaintiff from the suit land. During pendency of suit, defendant No.1 died. Counsel for plaintiff made a statement before the trial court that he did not claim any relief against defendant No.1 and accordingly, the trial court dismissed the suit qua defendant No.1. When case was at the stage of rebuttal and arguments, plaintiff/petitioner moved instant application to withdraw the statement earlier made by his counsel and to bring on record legal heirs of defendant No.1. Trial court rejected this plea. Aggrieved, instant revision petition has been filed. It appears, suit was instituted on 3.6.2005. After parties led their evidence, when case was fixed for rebuttal and arguments, petitioner moved instant application to withdraw statement dated 25.7.2006 made by his counsel before the trial court. In my considered view, trial court has rightly rejected the plea of the petitioner. I find no legal infirmity with the order. Suit had already been dismissed qua defendant No.1 Harminder Singh and he is no more

party in the suit. In case application (Annexure P-1) is pending, needless to observe trial court would be at liberty to decide the same. Therefore, question of impleadment of legal heirs of defendant No.1 at this stage does not arise. The revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

January 10, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No