

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

CR No. 3496 of 2017

Date of decision : 19.05.2017

Darshan Kalha

...Petitioner

V/s

Amritsar Improvement Trust & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Samarth Sagar, Advocate with
Mr. Sankalp Sagar, Advocate for the petitioner.

RAJAN GUPTA J.

Present revision petition is directed against the order passed by court below whereby application of the petitioner for being impleaded as LR's of the plaintiff has been dismissed and suit thus abated. Learned counsel for the petitioner has vehemently argued that petitioner is legal representative of the plaintiff and, thus entitled to be impleaded in his place and continue the proceedings. He has relied upon judgment reported as *M. Veerappa vs. Evelyn Sequeira & ors. (1988) 1 SCC 556* in support of his contention.

It appears plaintiff filed a suit for permanent injunction to restrain the defendant from interfering in lawful possession of the plaintiff over the property in question. Notice of the suit was issued. In reply, defendants rebutted the claim that deceased had executed any Will in favour of petitioner namely Darshan Kalha. Same was forged and fabricated document. During pendency of proceedings, plaintiff died. Instant application was moved by petitioner to pursue the suit as legal representative of the deceased. She claims her right on the basis of a Will. Trial court,

however, rejected the plea observing that suit was only for permanent injunction. Legal heirs of plaintiff have no right to be impleaded as parties as plaintiff had invoked a personal right by seeking injunction. Besides, they were always at liberty to file a separate suit. I find no infirmity with the order. Relationship of the petitioner with the deceased is not clear. She cannot be allowed to pursue the suit on the basis of Will set-up by her. There can be no dispute with the proposition of law laid down in M Veerappa's case (supra). It is, however, inexplicable how ratio of said judgment is applicable to the facts of the instant case. Revision petition is without any merit and is hereby dismissed.

May 19, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No