

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

(118)

CR-3858-2017

Decided on: July 06, 2017.

Jatinder Singh

.... Petitioner

Versus

Ajit Singh (Since Deceased) Thru Gurpreet Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Gurcharan Dass, Advocate, for the petitioner.

M.M.S. BEDI, J (ORAL)

Petitioner is aggrieved by order dated 03.05.2017, dismissing application under Order 1 Rule 10 CPC filed by the petitioner for being impleaded as LR of Ajit Singh, his father.

Learned counsel for the petitioner submits that order passed is contrary to the provisions of Order 22 Rule 5 CPC and the trial Court was required to determine the question as to who is the legal representative.

A brief reference to the facts of the case is relevant for the decision of this revision petition.

Ajit Singh had filed a suit for mandatory injunction against his son Jagmohan Singh @ Pappu and his wife Harjit Kaur @ Jeeto for a direction to them to hand over the physical vacant possession of the property. The petitioner is second son of Ajit Singh and claims himself to be in actual possession of another portion of the same house.

Plaintiff Ajit Singh had filed the suit through general power of attorney, Gurpreet Kaur, his daughter. After his death, Gurpreet Kaur in the capacity as daughter of Ajit Singh, has been impleaded as his LR. The legality of said order has also been challenged.

I have heard learned counsel for the petitioner.

No doubt, the petitioner is one of the natural heirs of Ajit Singh but taking into consideration the nature of the litigation i.e. where a father had sought possession from one of his sons and his wife and the petitioner being in possession of another portion of the same property, no relief having been claimed against the petitioner, the petitioner cannot be permitted to be impleaded as legal representative to pursue the case on behalf of Ajit Singh after his death as his legal representative. The order impleading the LRs of deceased party to a suit, is merely meant to enable the LRs to continue the suit and pursue the litigation if the cause of action still subsists.

In the present case, Ajit Singh being dominus litus of the case, had not opted to seek any claim against the petitioner for the reason best known to him and had not opted to seek possession from him, he being apparently an interested person being in possession of a portion of the property in dispute.

It is not out of place to observe here that the order of impleading LR, does not confer any personal title or right to a party and is always subject to all just exceptions.

In view of above circumstances, I do not find any ground to interfere in the order dismissing the application of the petitioner for impleading him as LR of Ajit Singh.

The petition is dismissed. However, it is observed that if the petitioner is a party in any other litigation pertaining to the property in dispute, dismissal of the application will not in any manner prejudice his rights there.

July 06, 2017
harsha

(M.M.S. BEDI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No