

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 4156 of 2017(O&M)
Date of Decision: 27.11.2017

Mrs. Ujjwal Sahrawat

---Petitioner

versus

Mr. Brijinder Singh Daulta and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Tammanna R. Sahrawat (SPA)
for the petitioner

Rekha Mittal, J.

C.M.No. 18773 CII of 2017

Heard.

Allowed as prayed for. Annexure P-1 and zimni order dated
13.7.2017 are taken on record subject to just exceptions.

Disposed of accordingly.

CR No. 4156 of 2017

The present petition directs challenge against order dated
12.12.2016 (Annexure P-1) passed by the Civil Judge (Senior Division),
Rohtak whereby application filed by the petitioner/defendant No. 1 under
Order 1 read with Section 151 of the Code of Civil Procedure (in short
“CPC”), has been dismissed.

Counsel for the petitioner has submitted that Major General
Brijinder Singh Daulta respondent No. 1, brother of the petitioner has filed a

suit claiming 1/3rd share in the suit property on the basis of natural succession to Sh. Partap Singh Daulta (since deceased). The petitioner denied claim of the respondent/plaintiff on the basis of registered Will executed by Sunehri Devi. Defendants Nos. 2 to 4 in the suit, successors in interest of Balganin Daulta son of Partap Singh filed written statement supporting claim of the plaintiff/respondent No. 1. It is argued that as defendants No. 2 to 4 are siding with the plaintiff and there is direct conflict of interest between defendant No. 1 and defendants No. 2 to 4, defendants No. 2 to 4 are liable to be transposed as plaintiffs. In support of her contention, she has referred to judgment of the privy counsel ***Bhupendra Narayan Sinha, Bahadur vs. Rajeswar Prosad Bhakat and others 1931 AIR (PC) 162.***

I have heard SPA of the petitioner, perused the paper book and the cited authority but find that the present petition is devoid of merit and liable to be dismissed.

Major General Brijinder Singh Daulta has filed a suit for possession by way of partition and copy of the plaint is annexure P2. Other class-I heirs of deceased Partap Singh Daulta are impleaded on the array of defendants. The present petitioner (daughter of Partap Singh Daulta) has set up a registered Will purported to be executed by Sunehri Devi widow of Partap Singh Daulta and has contested claim of the respondent/plaintiff to 1/3rd share in the suit property. Defendants No. 2 to 4, successors in interest of another son of Partap Singh Daulta have admitted claim of the plaintiff with regard to his 1/3rd share in the suit property.

As per the settled position in law, plaintiff is the *dominus litis* and cannot be compelled to join a person as a co-plaintiff. Defendants No.

2 to 4 who are supporting cause of the plaintiff have not filed an application for their transposition as plaintiffs by invoking the relevant provisions in law. The petitioner has failed to advance any meaningful arguments as to how the petitioner arrayed as defendant No. 1 can seek transposition of her co-defendants as co-plaintiffs of Major General Brijinder Singh Daulta. The judgment relied upon by counsel for the petitioner has got no bearing on the facts of the case in hand to support cause of the petitioner. In this view of the matter, there is no error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

27.11.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No