

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

**CR No.4696 of 2015
Date of Decision-18.08.2017**

Sarabjit Singh and another ... Petitioners

Versus

Puro through her LRs. Nirmal Singh and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vipin Mahajan, Advocate
for the petitioners.

Mr. Arun Abrol, Advocate
for respondent Nos.(i) and (iii).

RAJ MOHAN SINGH, J.

[1]. In this revision petition, petitioners have challenged the order dated 06.07.2015 passed by Civil Judge (Junior Division), Gurdaspur, vide which application filed by the respondents for impleading themselves as legal representatives of deceased Puro was allowed.

[2]. Plaintiff-Puro filed a suit against the defendants/petitioners for declaration to the effect that the sale deed dated 13.10.2010 in respect of suit land was illegal, null and void. The fraud was alleged in the context of execution of aforesaid sale deed and the sale deed was claimed to be fraudulent, without consideration and was the result of mis-representation. Consequential relief of permanent injunction was sought, restraining

the defendants/petitioners from alienating the suit land and dispossessing the plaintiff forcibly without due process of law. In the plaint, Puro showed herself to be widow of Bhagtu and then wife of Deva Singh.

[3]. During pendency of the suit, plaintiff Puro died on 03.03.2015. An application was filed by the respondents claiming themselves to be legal representatives of deceased Puro. The said application was contested by the defendants/petitioners on the ground that respondents were not the legal heirs of Puro, rather they were legal heirs of Deva Singh and Smt. Durgi. Deceased Puro was legally wedded wife of Bhagtu. Bhagtu and Deva Singh were real brothers. Out of wedlock of Puro and Bhagtu, one daughter namely Kamaljit Kaur took birth. Kamaljit Kaur died before the death of Puro i.e. she had pre-deceased plaintiff Puro. Kamaljit Kaur was having two sons namely Sarabjit Singh and Gurbaksh Singh i.e. defendants in the suit. A reference was made to the admission made by Balbir Singh who was one of the applicant.

[4]. Trial Court allowed the application vide order dated 06.07.2015. That is how, the present revision petition came to be filed.

[5]. I have heard learned counsel for the parties.

[6]. Learned counsel for the petitioners submitted that in fact Deva Singh and Bhagtu were real brothers. Deva Singh was

married to Smt. Durgi and out of this wedlock, six children namely Nirmal Singh, Jagir Singh, Balbir Singh, Nirmal Kaur, Rattan Kaur and Sumitter Kaur took birth. The aforesaid children have claimed themselves to be legal representatives of deceased Puro. In fact, they were legal heirs of Deva Singh and Smt. Durgi. Learned counsel further submitted that Puro was married to Bhagtu who was real brother of Deva Singh. Out of this wedlock, only one daughter namely Kamaljit Kaur took birth. Kamaljit Kaur pre-deceased her mother Puro. Kamaljit Kaur was survived by two sons namely Sarabjit Singh and Gurbaksh Singh i.e. defendants/petitioners. On the aforesaid premise, the application for impleading LRs of deceased Puro filed by respondents Nirmal Singh and others was opposed.

[7]. Learned counsel further contended that the trial Court could not postpone the issue of bringing legal representatives on record to a later stage. The determination of the issue was *sine qua non* before proceeding with the suit. Learned counsel also contended that it was obligatory on the part of the trial Court to adjudicate upon the factum of the legal representatives and without such determination and adjudication of the issue, the trial Court was not supposed to proceed further. Learned counsel relied upon **Karamjit Kaur and another Vs. Gurbant Singh and others, 2003(3) Civil Court Cases, 88** and **Mohinder Kaur and another**

Vs. Para Singh and others, AIR 1981 Punjab and Haryana 130(1)

in the aforesaid context.

[8]. On the other hand, learned counsel for the respondents submitted that in the controversy of present nature, particularly in view of the fact that Puro was shown to be wife of Deva Singh after the death of Bhagtu and the admission made by PW 1 Rattan Kaur in her statement coupled with entries made in the death certificate of Puro showing her to be wife of Deva Singh, trial Court has rightly brought on record all the legal representatives so as to vouch safe the interest of the property of the deceased for the ultimate benefit of real legal representatives of the deceased.

[9]. Learned counsel further contended that provision in terms of Order 22 Rule 5 CPC is only for the purpose of bringing on record legal representatives for conducting of the legal proceedings. Such a course does not operate as *res judicata*, nor *inter se* disputes between the rival legal representatives would be settled in any manner. The provision is only to allow the legal representatives to represent the cause of the deceased plaintiff for the ultimate benefit of real legal representatives which will be decided at the relevant stage. At this preliminary stage, no title *inter se* between the legal representatives is to be settled.

[10]. Learned counsel relied upon **Charanjit Singh and another Vs. Bharatinder Singh and others, 1987(1) PLR 403,** wherein **Mohinder Kaur and another's case (supra)** was relied

and it was held that the proper course would be to bring all the legal representatives on record so as to protect the interest of the property of the deceased for the ultimate benefit of real legal representatives. In **Suresh Kumar Bansal Vs. Krishna Bansal and another, (2010) 2 Supreme Court Cases 162**, the Hon'ble Apex Court held that the provision in terms of Order 22 Rule 5 CPC is only for the purpose of bringing on record legal representatives for conducting of the legal proceedings only. Such a course would avoid delay in disposal of the case. The observations made in para No.20 of the aforesaid judgment are to the following effect:-

“20. It is now well settled that determination of the question as to who is the legal representative of the deceased plaintiff or defendant under Order 22 Rule 5 of the Code of Civil Procedure is only for the purpose of bringing legal representatives on record for the conducting of those legal proceedings only and does not operate as res judicata and the inter se dispute between the rival legal representatives has to be independently tried and decided in probate proceedings. If this is allowed to be carried on for a decision of an eviction suit or other allied suits, the suits would be delayed, by which only the tenants will be benefitted.”

[11]. Having considered the submissions made by learned counsel for the parties, I am of the view that besides the factual rival contentions made by the parties, it can be noticed in the death certificate that Puro was shown to be wife of Deva Singh. Statements of Rattan Kaur (PW1) and Balbir Singh (PW 3) would be the subject matter of ultimate interpretation by the trial Court at the

relevant stage. At present, in the light of rival claims made by both the sides, it would be just and appropriate to implead all the legal representatives of deceased Puro on record. Such a course would be in consonance with the ratio laid down by the Hon'ble Apex Court in **Suresh Kumar Bansal's case (supra).**

[12]. In view of above, I find that there is no error of jurisdiction in the order dated 06.07.2015 passed by Civil Judge (Junior Division), Gurdaspur. This revision petition is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

18.08.2017
Prince

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