

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

CR No. 5010 of 2014(O&M)

Date of decision: 22.12.2017

Sukhwinder Kaur

.....Petitioner

VERSUS

Amarpal Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Dhriti Sharma, Advocate for the petitioner.

Mr. Abhinav Gupta, Advocate for respondents.

REKHA MITTAL, J.

Challenge in the present petition has been directed against order dated 26.04.2014 passed by the Additional Civil Judge (Senior Division), Nakodar whereby application for restoration of application dated 30.08.2012 which was dismissed in default on 06.10.2012 has been dismissed.

A brief backdrop of the case is that Bhajan Kaur wife of Jagtar Singh and mother of Jaspal Singh filed a petition for grant of succession certificate in regard to locker in Punjab and Sind Bank in the name of Jaspal Singh @ Pal Singh. The petitioner-applicant caused appearance through her counsel but later as there was no representation on her behalf, she was proceeded against ex parte on 17.01.2012. Certain official witnesses were examined by the respondent/petitioner therein and thereafter the petitioner filed an application for setting aside order dated 17.01.2012 whereby she was proceeded against ex parte. As none appeared on behalf of the petitioner/applicant, application for setting aside ex parte proceedings was dismissed on 11.06.2012. The respondent/petitioner examined four witnesses in her absence and the case was posted for ex

parte consideration. The petitioner filed an application for restoration of application for setting aside ex parte proceedings but as there was no representation on her behalf, the said application was also dismissed on 06.10.2012.

Counsel for the petitioner has submitted that a serious prejudice shall be caused to the petitioner in case she is not permitted to contest the petition filed by Bhajan Kaur for grant of succession certificate in respect of locker maintained by her husband. It is further argued that the petitioner being one of the class- I heirs of deceased Jaspal Singh @ Pal Singh is entitled to get succession certificate along with Bhajan Kaur (since deceased) now represented by her legal heirs.

Counsel representing the respondents has submitted that the background of the case noticed by the Court is more than sufficient to reflect upon conduct of the petitioner who had been absenting from the proceedings repeatedly without any tangible explanation. It is further argued that the petitioner has been convicted and sentenced for committing murder of her husband Jaspal Singh @ Pal Singh, therefore, has deprived herself to succeed to property of Jaspal Singh. Further argued that the petitioner had been absenting from the proceedings and remained filing repeated applications with a clear intent to prolong and protract the proceedings for grant of succession certificate which are otherwise summary in nature, she is not entitled to indulgence of this Court.

I have heard counsel for the parties and perused the paper-book.

Be that as it may, there is no dispute that Bhajan Kaur who has filed the petition for grant of succession certificate in regard to the locker in Punjab and Sind Bank in the name of deceased Jaspal Singh @

Pal Singh is the mother and class-I heir of deceased. Equally true is that the present petitioner is the widow of deceased Jaspal Singh @ Pal Singh. Counsel for the petitioner has not disputed that the petitioner was accused of committing murder of her husband and she has been convicted and sentenced for the said offence and appeal is pending in the Court. There is also no dispute between the parties with regard to legal representatives of deceased Bhajan Kaur. Under the circumstances, there is no question of petitioner suffering any prejudice much less irreparable loss in case she is not allowed to contest the proceedings from its inception or file reply to the application for grant of succession certificate.

As per the settled position in law, a party who has been proceeded against ex parte can join the proceedings at any stage even without getting the order whereby he has been proceeded against ex parte and proceedings conducted in his absence set aside. In this view of the matter, no useful purpose would be served by issuance of a direction to the Court below to decide first the application seeking setting aside of ex parte proceedings by restoring the subsequent applications which were also dismissed for want of prosecution except at the cost of wastage of time, money and energy of all the stake-holders particularly precious time of the Court when otherwise the Courts are over-burdened with arrears of cases.

For the foregoing reasons, the petition is disposed of. The petitioner is allowed to join the proceedings at the present stage and would be at liberty to argue the case, in accordance with law.

DECEMBER 22, 2017

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no