

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 5929 of 2017

Date of Decision: 29.9.2017

Jasmit Singh

.....Petitioner

Versus

Aishmeen Rai and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Gulzar Singh, Advocate
for the petitioner.

ANITA CHAUDHRY, J

The petitioner has assailed the order dated 11.7.2017 (Annexure P-4) vide which the application filed by him under Order 7 Rule 11 CPC has been rejected.

Few facts are essential. A suit has been filed by the minor child of defendant No. 1. He was seeking declaration that he was the joint owner with defendant No. 1 in the property detailed in the suit, the property was joint Hindu coparcenary property and defendant No. 2 had no right in it. The suit was filed through the maternal grandfather.

An objection was taken by the defendants that the suit was not maintainable in view of Section 6 of the Hindu Minority and Guardianship Act and the only guardian of the minor could be the father and the grandfather could not represent the minor. It was also disclosed therein that the plaintiff's mother had got the suit filed with an ulterior motive after receiving Rs. 25.00 lacs as full settlement and the suit had been got filed

Thereafter an application was moved for amendment of the plaint under Order 6 Rule 17 CPC by the plaintiff seeking permission to amend the plaint as the suit was required to be filed through the mother who was next friend, therefore, permission was sought to amend the plaint and file the suit through the mother who ultimately was to be represented by her attorney Kulwinder Singh, the grandfather. That application was also allowed.

I have heard the counsel for the petitioner at length.

Counsel for the petitioner refers to Section 6 of the Hindu Minority and Guardianship Act and urges that only a father can represent the minor's property and the suit was not maintainable and the plaint should have been rejected as it is against law.

I find no merit in this petition. The relationship between the parents is estranged. There is also a divorce decree. The child is living with the mother. The Court has permitted the mother to represent the minor through her attorney Kulwinder Singh, the maternal grandfather. The suit has not been filed under the Minority and Guardianship Act.

I find no infirmity in the order passed by the Court below.

The revision petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

September 29, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No