

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8373 of 2015 (O&M)

Date of decision: 19.01.2017

Vijay Ganapati

... Petitioner

Vs.

Chitra Ganapati

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. G.S. Sirphikhi, Advocate
for the petitioner.

Mr. N.D. Achint, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present revision petition is directed against the order dated 09.11.2015 (Annexure P-9), whereby application of the respondent was allowed under Order 22 Rule 4 of the Code of Civil Procedure, as the sole legal representative of defendant No.1 namely Ms. R. Sharada.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that plaintiff-petitioner was adopted son of late Sh. R. Ganapati. He filed the suit for declaration, challenging the validity of Will dated 20.12.2000, executed by late Sh. R. Ganapati in favour of Ms. Chitra Ganapati-respondent (defendant No.2). During pendency of the suit, Ms. R. Sharada-defendant No.1 died. Plaintiff-petitioner

moved an application dated 02.11.2013 (Annexure P-5) for bringing on record the legal representatives of late Ms. R. Sharada. During pendency of this application, defendant No.2-respondent, Ms. Chitra Ganapati also moved an application for getting herself impleaded as the sole legal representative of deceased-defendant No.1 vide Annexure P-7 dated 16.10.2015. While deciding both the abovesaid applications, learned trial Court did not make it clear in the impugned order, bringing on record of Ms. Chitra Ganapati (defendant No.2) as sole legal representative of defendant No.1 that it will not adversely affect the rights of the plaintiff-petitioner Vijay Ganapati in any manner. To this limited extent the petitioner felt aggrieved and approached this Court by way of present revision petition.

After hearing the learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that since defendant No.2-respondent Ms. Chitra Ganapati was claiming herself to be the sole legal representative of defendant No.1 Ms. R. Sharada on the basis of a Will, her application under Order 22 Rule 4 CPC could not have been allowed to the detriment of the plaintiff-petitioner. In this view of the undisputed fact situation obtaining on the record, present revision petition deserves to be accepted. Accordingly the impugned order dated 09.11.2015 (Annexure P-9) is modified to the extent that the respondent-defendant No.2 Ms. Chitra Ganapati could not have been treated as the sole legal representative of late Ms. R. Sharada-defendant No.1.

However, since other legal representative of Ms. R. Sharada was already the plaintiff, this needs to be clarified that the respondent Ms. Chitra Ganapati would be representing the estate of late Ms. R. Sharada only to the

extent of her share and the right of the petitioner-plaintiff shall not be adversely affected in any manner. It is also directed that learned trial Court shall keep this aspect of the matter into consideration at the time of deciding the suit pending between the parties.

With the abovesaid observations made and directions issued, instant revision petition stands disposed of, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

19.01.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No