

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.8982 of 2017
Date of Decision:22.12.2017

Mahendra Pal

...Petitioner

Versus

Sh.Rupendra Pal and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

ANIL KSHETARPAL, J. (ORAL)

Legal heir of Mahendra Pal, appellant before the first appellate court, has filed this revision petition against the order dated 16.10.2017, allowing the application filed by respondent No.1-Rupendra Pal to be brought on record as legal heir of Shri Mahendra Pal, in addition to the petitioner.

Responent No.1-Rupendra Pal filed an application for impleading him as legal heir of late Sh.Mahendra Pal on the ground that he is son of late Sh.Mahendra Pal. Along with the application, applicant produced a copy of the birth certificate.

Petitioner contested the application.

The learned first appellate court allowed the application and respondent No.1 was also impleaded as a legal heir of Mahendra Pal for the purpose of prosecuting the appellant only leaving the parties to get their dispute resolved amongst legal representatives through the competent court.

I have heard the learned counsel for the petitioner.

Learned counsel for the petitioner has submitted that the rights of the petitioner shall be prejudiced, as the court has failed to decide the application, in terms of Order 22 Rule 5 of the Code of Civil Procedure.

I have considered the submission. However, I do not find any merit in the same. It is not in dispute that at the time of adjudication of application under Order 22 Rule 5 of the Code of Civil Procedure, the court does not decide the rights of the parties. The procedure under Order 22 CPC is only for the purpose of bringing on record the legal heir of a deceased. Such decision by the court is not *resjudicata* as has been held by the Full Bench judgment of this Court in ***Mohinder Kaur and another Vs. Para Singh and others AIR 1981 Punjab 130.***

Taking into consideration these facts, this Court is of the considered opinion that decision on an appeal cannot be stalled merely because there is inter se dispute between the legal heirs. The learned first appellate court has allowed all the legal heirs to be brought on record for the purpose of prosecuting the appeal, leaving the parties to get the inter se dispute resolved through appropriate proceedings.

In view of the above, there is no scope for interference in the impugned order passed by the court below.

Dismissed.

22.12.2017
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No