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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 20.4.2018

(1) CR-1906-2016 (O&M)

Smt. Nirmal Aggarwal

..... Petitioner

Versus

Vikas Aggarwal and another

..... Respondents

(2) CR-2028-2016 (O&M)

Smt. Nirmal Aggarwal

..... Petitioner

Versus

Vikas Aggarwal and another

..... Respondents

(3) CR-2035-2016 (O&M)

Smt. Nirmal Aggarwal

..... Petitioner

Versus

Vikas Aggarwal and others

..... Respondents

(4) CR-356-2018 (O&M)

Divya Bansal @ Divya

..... Petitioner

Versus

Vikas Aggarwal and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vijay Sharma, Advocate for the petitioner.

Ms. Navneet Kaur, Advocate for Mr. G.S. Nahel, Advocate
for respondent No. 1.

Mr. Namit Kumar, Advocate for
Mr. Alankrit Bhardwaj, Advocate for respondent No. 2.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

This order of mine shall dispose of above mentioned four

revision petitions i.e. **CR-1906-2016**; **CR-2028-2016**; **CR-2035-2016** and **CR-356-2018** as the common questions of law and facts are involved in all the petitions. For brevity, the facts are being taken from **CR-1906-2016**.

The short controversy involved in all the cases is that Surinder Kumar Aggarwal husband of Nirmal Aggarwal died. Thereafter, dispute arose between the legal heirs of said Surinder Kumar Aggarwal. Vikas Aggarwal is the son of Surinder Kumar Aggarwal (deceased). He has set up a Will which has been challenged by Nirmal Aggarwal in a civil suit No. 24 dated 30.3.2010/4.2.2013.

Undoubtedly, Surinder Kumar Aggarwal left behind one daughter namely Divya wife of Rohit Bansal. In the civil suit No. 24 of 30.3.2010, Nirmal Aggarwal filed an application for impleading Divya wife of Rohit Bansal as a party respondent stating that she is one of the legal heirs and her presence is required. The said application was dismissed vide order dated 5.1.2016 passed by learned Additional Civil Judge, (Senior Division), Ambala.

It also comes out that in the same suit Divya has also filed an application for impleading her as party under Order 1 Rule 10 of the Code of Civil Procedure, 1908 on 8.8.2016. The same was dismissed vide order dated 13.9.2016 passed by learned Additional Civil Judge (Senior Division), Ambala.

After hearing both the parties and going through the file, I am of the view that suit is for declaration for setting aside the Will dated 7.1.2009 set up by Vikas Aggarwal which is alleged to have been executed by Surinder Kumar Aggarwal, who was the owner of the property. Surinder Kumar Aggarwal left behind his widow Nirmal Kaur Aggarwal; Vikas

Aggarwal and Divya. In case the Will dated 7.1.2009 is set aside, the property will go by natural inheritance, therefore, presence of all the *class-I* heirs is necessary for disposal of the suit.

Learned counsel for Divya Aggarwal has stated at the bar that Divya will not lead any evidence if she is impleaded as party.

As such, impugned orders dated 5.1.2016 and 13.9.2016 passed by learned Additional Civil Judge (Senior Division), Ambala are set aside and Divya (wife of Rohit Bansal) daughter of Surinder Kumar Aggarwal is ordered to be impleaded as party defendant. However, she will be bound by the statement made before this Court that she will not lead any evidence.

In view of above all the revisions petitions are allowed.

A photocopy of this order be placed on the connected files.

Since the main revision petitions are dismissed, the miscellaneous application(s) if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

20.4.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No