

Civil Revision No.1763 of 2018 (O&M)

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

Civil Revision No.1763 of 2018 (O&M)

Date of decision: 23.03.2018

Surjit Kaur through her LRs

.....Petitioners

versus

Baldev Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Rohit Ahuja, Advocate, for the petitioners.

RAMENDRA JAIN, J. (ORAL)

CM-5460-CII of 2018

Through this application under Order 22 Rule 3 and Order 1 and Rule 10 read with Section 151 CPC prayer has been made for impleading the persons named in para No.4 of the application as LRs of plaintiff Surjit Kaur.

Heard.

For the reasons mentioned in the application, same is allowed. Persons named in para No.4 of the application are permitted to be impleaded as LRs of deceased plaintiff Surjit Kaur, subject to all just exceptions.

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Through this petition under Article 227 of the Constitution of India, petitioners have laid challenge to order dated 22.08.2017 (Annexure P-5) of the trial Court, whereby their application under Order 1 Rule 10 and Order 22 Rule 4 read with Section 151 CPC for impleading the LRs of defendant No.3, namely, Deepak Kumar, was dismissed.

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Learned counsel for the petitioners *inter alia* contends that at the time of filing of the suit by mother of the petitioners, impleading one Deepak Kumar defendant No.3, she was not aware about his death. Their mother came to know about same from the written statement filed by respondent No.1-defendant. Knowing this fact, application for impleading his LRs was filed without any delay within reasonable time.

Having given considerable thought to the submissions made by learned counsel for the petitioners, instant petition deserves acceptance for the reason that except Deepak Kumar, four more persons were impleaded as defendants.

It seems that filing of the application to implead the legal heirs of deceased defendant No.3 after four years of filing the suit has much weighed in the mind of the trial Court while dismissing the application of the petitioners, but the same does not sound reasonable due to the fact that defendant No.1 had filed his written statement approximately after three years of filing of the suit from which mother of the petitioners came to know of the fact that Deepak Kumar had already died before filing of the suit. She immediately, within reasonable time filed an application to implead his LRs. Therefore, mother of the petitioners cannot be blamed for the delay in filing application for impleading the LRs of defendant No.3 inasmuch as, in case, she would have aware about the death of defendant No.3 at the time of institution of the suit, she was the last person to commit such a blunder of filing a suit against a dead person.

In view of the discussion made above, impugned order is set aside. Resultantly, petitioners are permitted to implead the LRs of deceased defendant No.3 Deepak Kumar as defendants No.3A to 3D.

This petition is disposed of without issuing notice to the

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respondents with a view to impart justice to the parties and to save the huge expenses which may be incurred by the respondents and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondents may move this Court for recalling this order within six weeks from today.

March 23, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.