

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.22 of 2018

Date of decision:09.01.2018

Hans Singh (since deceased) through LR ... Petitioner

Vs.

Bhupinder Kaur and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Saurabh Kaushik, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The present petition has been filed under Article 227 of the Constitution of India for quashing the impugned order dated 05.09.2017 (Annexure P-1) passed by the trial Court in Civil Suit No.181T of 31.10.2014/02.04.2016.

Learned counsel for the petitioner/beneficiary of the Will dated 13.04.2016 submits that Hans Singh, testator of the Will had filed a suit under XXXVII of CPC for recovery of ₹3,08,000/- (₹2,00,000/- as principal amount + ₹ 1,08,000/- as interest) with future interest @ 1.50% per month. During the pendency of the suit, unfortunately, Hans Singh had expired on 28.05.2017 and left behind legal heirs, *ibid*. An application for brining on record his legal representatives has been filed on the basis of the fact that he had executed a Will in favour of the petitioner, namely Pargat Singh. The same has been allowed with a following rider:-

“5. In view of the aforesaid discussion, application under Order 22 Rule 3 CPC stands allowed. However, applicant Pargat Singh alongwith Lal Singh, Saudgar Singh, Param Singh and Manjit Kaur are ordered to be impleaded as legal heirs of deceased Hans Singh only for the disposal of the present suit subject to just exceptions. Let file be put up on 20.9.2017 for filing amended head note.”

This Court called upon learned counsel for the petitioner, as to whether the Will pertained to the movable property or not, the answer was in negative. The trial Court, in my view, had already protected the interest of the petitioner and other legal heirs for adjudication of the suit, *vis-a-vis* recovery and question of title had been left open, therefore, no cause of action arises for the petitioner in challenging the impugned order.

Faced with this situation, learned counsel for the petitioner seeks withdrawal of the present petition.

Ordered accordingly.

(AMIT RAWAL)
JUDGE

January 09, 2018

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No