

251

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

CR-235-2017

Date of decision : 25.04.2018

Narinder

... Petitioner(s)

Versus

Roshan @ Darshan Lal and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashwarya Bajaj, Advocate for
Mr. Saurabh Bajaj, Advocate
for the petitioner.

Mr. Munish Jolly, Advocate
for respondent Nos.2 to 4.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the order dated 19.09.2016 (Annexure P-4), whereby the application submitted by the applicant/petitioner Narinder, to be son of Zile Singh, has been dismissed and another application moved by the applicants i.e. LR's of respondent No.2 herein seeking impleadment as LR's of decree-holder/Zile Singh on the basis of the Will dated 03.09.2014, has been allowed.

Learned counsel appearing on behalf of the petitioner submitted that the aforesaid exercise was done during the pendency of the execution application bearing No.14 of 2014 seeking specific performance of the agreement to sell, which the defendant had lost upto this Court. However, during the pendency of the execution application, Zile Singh died. For the

purpose of pursuing the execution application, all the LR's of Zile Singh were required to be impleaded, but not in the manner and mode, only by permitting the beneficiaries of the Will dated 03.09.2014. In support of his contentions, he relies upon the *ratio decidendi* culled out by Hon'ble Supreme Court in **"Suresh Kumar Bansal V/s Krishna Bansal and another" (2010) 2 Supreme Court Cases 162.**

Learned counsel appearing on behalf of LR's of respondent No.2-Zile Singh does not dispute the aforesaid *ratio decidendi* and submitted that for the purpose of adjudication of the execution application, all the LR's can be brought on record and the question of Will can be kept open to be decided in the independent proceedings.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Bajaj. It is a settled law that in the absence of un-probated Will, all the LR's of the testator/deceased are required to be brought on record for pursuing the cause actuated by him during his life time. The Court below could not have confined the impleadment of the LR's i.e. beneficiaries of the Will *ibid*, by ousting the claim of the petitioner-Narinder.

As an upshot of my observations, the impugned order, under challenge, is not sustainable in the eyes of law and the same is hereby set aside. All the LR's be brought on record for the purpose of pursuing the execution application seeking the performance of decree passed in favour of Zile Singh.

However, it is made clear that the question of Will is kept open to be decided in the independent proceedings.

With the aforesaid observations, the present revisions petition stands allowed.

25.04.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No