

201

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

**Civil Revision No.3280 of 2016 (O&M)
Date of Decision : 04.07.2018**

Beant Kaur

V/s

Karamjit Singh

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present :- Mr. Snehdip Oberoy, Advocate for
Mr. Peeush Gagneja, Advocate
for the petitioner.

Mr. P.S. Jammu, Advocate
for the respondent.

B.S. Walia, J (Oral)

1. Revision petition has been filed under Article 227 of the Constitution of India praying for quashing of order dated 11.03.2016, Annexure P-5 passed by the learned Additional Civil Judge, (Senior Division), Dabwali in Civil Suit No.13 of 2016 allowing the application filed by the respondent /plaintiff under Order 32 Rule 15 of the CPC.

2. A perusal of the impugned order at page No. 33 of the paper book reveals that the application under Order 32 Rule 15 of the CPC was allowed by observing that the question whether the respondent/ plaintiff/applicant was a disabled person and whether he understood the contents of the documents as alleged to have been thumb marked by him was a matter of evidence.

3. Order 32 Rule 15 of the CPC lays down that the provisions of Order 32 Rule 1A CPC shall so far as may be, applied to a person either

adjudged before or during the pendency of the suit to be of unsound mind and also apply to persons who though so not adjudged are found by the Court on enquiry to be incapable by reason of any mental infirmity of protecting their interest when suing or being sued.

3. A perusal of the impugned order reveals that there is no adjudication with regard to the unsoundness of mind of the plaintiff/respondent nor does the order reflects any enquiry having been conducted by the Court to arrive at a satisfaction that the respondent/plaintiff was incapable of protecting his interest by reason of any mental infirmity.

4. In the circumstances, the impugned order is unsustainable and is accordingly set aside. However, it is made clear that this order shall not preclude the Court from conducting an enquiry with regard to the incapacity of the plaintiff/respondent of protecting his interest in the suit instituted by him. If on enquiry, the Court records satisfaction that the plaintiff/respondent is incapable of protecting his interest in the suit, then the plaintiff/respondent would be entitled to the benefits accruing to a litigant who on account of mental infirmity is incapable of protecting his interest while instituting the suit in accordance with the provisions of Order 32 Rule 15 of the CPC.

5. Revision petition is disposed of with aforementioned observations.

(B.S. Walia)
JUDGE

04.07.2018

Manpreet

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No