

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

Civil Revision No.3001 of 2018

Date of decision: May 07, 2018

Paramjit Singh

...Petitioner

Versus

Ishrit Kaur Gill and others through their maternal uncle Harjit Singh

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ravish Bansal, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this revision petition against Ishrit Kaur Gill and other respondents through their maternal uncle Harjit Singh under Article 227 of the Constitution of India for setting aside the order dated 04.04.2018 passed by learned Civil Judge (Senior Division), Faridkot, vide which the application dated 04.01.2018 filed by the defendant-petitioner for dismissal of the suit, has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Ishrit Kaur, Nimrit Kaur and Shubrit Kaur minor daughters of defendant Paramjit Singh have filed a suit through their maternal uncle Harjit Singh as their next friend, against the defendant for recovery of ₹5,40,000/- by way of maintenance and also for

affixing the maintenance @ ₹5000/- per month for each of the plaintiff and

for creating charge on the lands mentioned in the head note of the plaint. During the pendency of the suit, when the case was fixed for defendant's evidence, an application was filed by the defendant Paramjit Singh through his attorney Harvinder Singh for dismissing the suit. It has been stated in the application that Harjit Singh has no right to file present suit as mother of the minors is alive and minors are staying with her. It is also stated that earlier the plaintiffs (present respondents) have filed an application for maintenance, which was decided by Australian Competent Court. The case of the respondents-plaintiffs is that Harjit Singh is maternal uncle of minors and he has no interest adverse to the interest of the minors.

Learned Civil Judge (Sr. Divn.), Faridkot, vide impugned order dated 04.04.2018, dismissed the application by stating that case is already fixed for evidence of defendant and it is a matter of evidence whether present suit is maintainable or not. Therefore, at this stage, no ground is made out to dismiss the present suit.

From the perusal of the record as well as the impugned order, I find that no illegality has been committed by learned Civil Judge (Sr. Divn.) Faridkot, while passing the order dated 04.04.2018. The perusal of the record shows that firstly, there is no pleading or objection in the written statement that suit cannot be filed through Harjit Singh next friend. Secondly, the finding of fact is to be given regarding effect of the proceedings before the Australian Court qua maintenance and this fact is to be decided by the Court as per evidence and law. The present suit is already fixed for defendant's evidence. Therefore, at this stage, without taking evidence, no ground is made out for dismissing the suit.

In view of the above discussion, I find that no illegality has

been committed while passing the impugned order. The order dated 04.04.2018 passed by learned Civil Judge (Sr. Divn.) Faridkot, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

May 07, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No