

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

CR No.3779 of 2016

Date of Decision:18.05.2018

Mohinder Singh

.....Petitioner

Vs.

Davinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.D.S.Bhinder, Advocate for the
petitioner.

AMIT RAWAL J.(Oral)

Present revision petition is directed against the order dated 27.04.2016 whereby on account of demise of Amarjit Kaur, plaintiff-decree holder, dispute with regard to impleadment of legal representatives arose as Davinder Singh and Gurninder Singh son of Mohinder Singh, had been impleaded as LR's of Amarjit Kaur.

Learned counsel appearing on behalf of the petitioner submits that in a Civil Suit No. 364 of 2008 claiming permanent maintenance under the Hindu Adoption and Maintenance Act, the trial Court vide decision dated 27.03.2015 decreed the suit entitling the Amarjit Kaur (since deceased) for recovery of maintenance @ Rs.8,000/- per month for a period of three years immediately preceding the filing of the suit along with interest @ 18%. An execution application was filed at the instance of Amarjit Kaur.

During the pendency of the execution application, Amarjit Kaur died. In such circumstance, no further cause or right survived in the execution application for bringing on record her LR's, for, it was personal as the Mohinder Singh(petitioner), the husband is liable for maintenance. The benefit

aforementioned alleged outstanding amount of maintenance would not enure to legal heir being major nor dependent upon the mother. Therefore, impugned order is not sustainable.

On notice of motion vide order dated 04.08.2016, further proceedings before the trial Court for recovery of decretal amount from the petitioner/JD's were stayed.

On 09.12.2016, there was no representation on behalf of respondent No.1, despite service. Accordingly, I proceed to decide petition.

I have heard learned counsel for the petitioner and appraised the paper book and of the view that there is force and merit in submissions of the learned counsel for the petitioner. The facts as noted above are not in dispute.

Maintenance had been ordered against the husband Mohinder Singh. Since wife had died the amount allegedly due cannot be passed to the LR's i.e. children being major nor they are stated to be dependent upon late Amarjit Kaur, their mother, in a case pertaining to maintenance under the Hindu Adoption and Maintenance Act. The trial Court has not appreciated the above-mentioned facts and allowed the application of LR's of Amarjit Kaur, as pendency of execution application and adjudication would be an exercise in futility.

For the reasons above-mentioned, impugned order is set aside and the revision petition stands allowed.

(AMIT RAWAL)
JUDGE

18.05.2018
Anjal/Manpreet

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No