

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

CR No.3987 of 2017
Date of decision : 04.05.2018

Balwinder Bindu and another

...Petitioners

Versus

Sumittar Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunil Garg, Advocate for the petitioners.

Mr. Satbir Rathore, Advocate for respondent No.1.

Mr. Rajeev Kumar Sharma, Advocate for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

The petitioners before this Court is a Widow and her minor daughter. They filed a suit claiming their share in the amount payable by Life Insurance Corporation with respect to the policy held by Late Sh. Ranjit Singh. Life Insurance Corporation has paid the amount to the mother of Ranjit Singh who is defendant No.1 on the basis of the nomination. Hence, a suit for recovery was filed. Unfortunately, the suit was dismissed for non-prosecution on 20.10.2012. An application for restoration was filed on 27.05.2013 which was also dismissed in default on 14.01.2014. An application for restoration of the suit was filed rather than filing the application seeking restoration of the application for restoration.

Learned trial Court dismissed the application on the ground that

the application should have been filed only for restoration of the application and not for restoration of the suit. No doubt, technically the learned Judge is correct, however, Rules of Procedure are meant to advance justice not to scuttle the same. The Courts while deciding these applications must make sincere endeavour to advance the cause of justice de hors the technicalities. A widow and her minor daughter are trying to get their share in the amount paid by the Insurance Company on the basis of the nomination.

The law on the issue is already settled by Hon'ble the Supreme Court that by mere nomination in favour of any person, does not exclude the natural heirs to claim the property on the basis of inheritance. However, without going into the merits of the case, the present revision petition is allowed. The suit is restored to its original number. The trial Court is requested to decide the suit expeditiously.

04.05.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No