

In the High Court of Punjab and Haryana at Chandigarh

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CR No. 5784 of 2015 (O&M)

Date of decision: 27.7.2018

MALKIAT SINGH

.....petitioner

Versus

Ajit Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Deepak Arora, Advocate for the petitioner.

RAJ MOHAN SINGH, J (oral)

This case was called on number of occasions since morning, none has turned up on behalf of the respondents.

Petitioner has challenged the order dated 2.5.2015 passed by Civil Judge (Jr.Divn.) Gurdaspur, vide which the application filed by him under Order 1 Rule 10 read with Section 151 CPC was dismissed.

Share of deceased Balwinder Singh is in issue. Petitioner has staked his claim over the share of Balwinder Singh on the basis of Will dated 15.6.2004. Respondents have claimed the estate of Balwinder Singh on the strength of natural inheritance. The share of the petitioner was declined by the trial Court on the ground that the names of attesting witnesses have not come forth on the Will produced by the petitioner along with the application under Order 1 Rule 10 CPC.

Vide order dated 24.5.2018, translated copy of Will was ordered to be placed on record by the petitioner. The petitioner has placed on record photocopy of vernacular along with translation of the Will showing that Manga Ram, Member Panchayat and Narinder Singh were the attesting witnesses to the aforesaid Will.

In the present revision petition, validity or otherwise of the Will cannot be commented upon. Two sets of persons have come forward to stake their claims to the estate of deceased Balwinder Singh.

In view of ratio as laid down in **Charanjit Singh and another vs. Bharatinder Singh and others, 1987 (1) PLR 403,** wherein case titled **Mohinder Kaur and another vs. Piara Singh and others, AIR 1981, Punjab and Haryana, 130 (1)** was relied upon and it was held that in such a situation, proper course would be to bring all the legal representatives on record for the purposes of pursuing the litigation so as to protect interest of the property of the deceased for ultimate benefit of real legal representatives.

In **Suresh Kumar Bansal vs. Krishna Bansal and another, (2010) 2 Supreme Court Cases 162,** the Hon'ble Apex Court has held that the provisions in terms of Order 22 Rule 5 CPC are only for the purpose of bringing on record the legal representatives of the deceased for conducting the legal

proceedings only. Such a course would avoid delay in disposal of the case. All the legal heirs can be impleaded as legal heirs of deceased Balwinder Singh for the benefit of the estate to be succeeded by them in accordance with law. Such a course would be in consonance with the ratio as laid down in **Suresh Bansal's case (supra)**. However, both the sets of legal heirs would be at liberty to settle their *inter se* dispute in accordance with law in an appropriate forum.

It is made clear that bringing on record legal representatives would be only for the purpose of conducting legal proceedings. Such a course will not operate as *res judicata*, nor *inter se* dispute between the rival legal representatives would be settled in any manner. The provision is only to allow the legal representatives to represent the cause of the deceased for ultimate benefit of real legal representatives, which will be decided at the relevant stage. No *inter se* title between the legal representative is to be settled by way of bringing them on record.

Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

July 27, 2018

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Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No