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

CR No. 6742 of 2018
Date of Decision: 22.11.2018

Sagar

-Petitioner

Vs

Joginder Singh (since deceased) through LRs and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.S. Malik, Advocate, for
Mr. Ravinder Malik, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has challenged the order dated 11.05.2018 passed by Civil Judge (Senior Division), Indri vide which application filed by defendant No.2 for impleading legal heirs of Joginder Singh i.e. defendant No.1 was allowed.

The application was filed on the plea that defendant No.1- Joginder Singh has expired on 05.08.2016 leaving behind Kanta Rani (widow), Bhupin Kamboj (son) and Ranjan Kamboj (daughter).

Kanta Rani staked her claim in the property on the basis of registered Will dated 13.01.2016 executed by Joginder Singh- defendant No.1.

The application was opposed by the plaintiff on the

premise that Kanta Rani is not the widow of Joginder Singh and Bhupin Kamboj and Ranjan Kamboj are the illegitimate children of deceased- Joginder Singh and the legal heirs of deceased- Joginder Singh have not been shown in the application.

In **Charanjit Singh and another Vs. Bharatinder Singh and others, 1987(1) PLR 403, Mohinder Kaur and another Vs. Para Singh and others, AIR 1981 Punjab and Haryana 130(1)**, it was held that the proper course would be to bring all the legal representatives on record so as to protect the interest of the property of the deceased for the 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 held that the provision in terms of Order 22 Rule 5 CPC is only for the purpose of bringing on record legal representatives for conduct of the legal proceedings only. Such a course would avoid delay in disposal of the case. The observations made in para No.20 of the aforesaid judgment reads as under:-

“20. It is now well settled that determination of the question as to who is the legal representative of the deceased plaintiff or defendant under Order 22 Rule 5 of the Code of Civil Procedure is only for the purpose of bringing legal representatives on record for the

conducting of those legal proceedings only and does not operate as res judicata and the inter se dispute between the rival legal representatives has to be independently tried and decided in probate proceedings. If this is allowed to be carried on for a decision of an eviction suit or other allied suits, the suits would be delayed, by which only the tenants will be benefitted.”

The adjudication of the issue at the initial stage was deprecated. It was held that it is obligatory on the part of the Court to bring on record all the legal representatives so as to represent the estate of the deceased and the *lis* (if any) between the legal representatives in respect of title can be decided independently.

The ratio laid down in **Suresh Kumar Bansal's case** (**supra**) was followed by this Court in **CR No.4696 of 2015** titled 'Sarabjit Singh and another Vs. Puro through her LRs. Nirmal Singh and others' decided on 18.08.2017. The *inter se* entitlement of the legal representatives would be decided by the trial Court at the relevant stage. Impleadment of the legal representatives is only to represent the estate of deceased.

In the instant case, status of Bhupin Kamboj and Ranjan Kamboj whether they are illegitimate children or not would be decided by the competent Court at the relevant stage.

Similarly, validity of Will in favour of Kanta Rani would also be decided at the relevant stage.

At the present stage, only the estate of the deceased- Joginder Singh is ensured to be represented by legal representatives.

There is no error of jurisdiction in the impugned order passed by the trial Court.

This revision petition is accordingly, dismissed.

22.11.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No