

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 21.09.2018

1. CR No.6861 of 2017(O&M)

Rampal and others

.....Petitioners

Versus

Saroj and others

.....Respondents

2. CR No.6906 of 2017(O&M)

Rampal and others

.....Petitioners

Versus

Saroj and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Nonish Kumar, Advocate
for the petitioners.

Mr. Akshay Jindal,Advocate
for respondents No.1 to 4.

RAJ MOHAN SINGH, J.(Oral)

[1]. Vide this common order, CR No.6861 of 2017 titled Rampal and others Vs. Saroj and others and CR No.6906 of 2017 titled Rampal and others Vs. Saroj and others are being decided. Since common question of law is involved in the aforesaid revision petitions, for brevity, the facts are being taken

from CR No.6861 of 2017.

[2]. In CR No.6861 of 2017, petitioners have assailed the order dated 29.08.2017 passed by Civil Judge (Junior Division), Karnal whereby application filed by respondents No.1 to 4 under Order 1 Rule 10 CPC has been allowed and they have been brought on record as legal heirs of plaintiff Rajesh Kumar.

[3]. In CR No.6906 of 2017, petitioners have assailed the order dated 03.08.2017 passed by Civil Judge (Junior Division), Karnal whereby application under Order 1 Rule 10 CPC filed by respondents No.1 to 3 has been allowed and they have been brought on record as legal heirs of deceased Rajesh Kumar.

[4]. Admittedly, the plaintiff got the property from maternal side. Plaintiff died on 12.02.2017. After the death of Bimla, Ram Kishan got married to Saroj. From the said wedlock, Suresh, Sandeep and Suman took birth.

[5]. At this stage, the dispute is with regard to the representative to be made by the parties to the estate of deceased plaintiff Rajesh Kumar. Respondents No.1 to 5 are the step brothers, step sisters and step mother of Rajesh Kumar.

[6]. Whether the property allegedly derived by Rajesh Kumar from maternal side can be credited to the share of respondents No.1 to 5 would be a debatable issue at the

relevant stage. At the stage of Order 22 Rule 5 CPC, the purpose is only to bring all legal representatives on record for conduct of legal proceedings. Such a course does not operate as *res judicata*, nor *inter se* disputes between the rival legal representatives would be settled in any manner. The provision is only to allow the legal representatives to represent the cause/estate of the deceased plaintiff for the ultimate benefit of real legal representatives which will be decided at the relevant stage. At this preliminary stage, no title *inter se* between the legal representatives is to be settled.

[7]. 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.”

[8]. The adjudication of the issue at the initial stage was deprecated. It was not obligatory on the part of the Court to adjudicate upon the factum of legal representatives at the initial stage as the same would further delay the disposal of the suit.

[9]. The ratio laid down in **Suresh Kumar Bansal's case** (**supra**) has been 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.

[10]. The *inter se* entitlement of the legal representatives would be decided by the trial Court at the relevant stage. The impleadment of respondents No.1 to 4 is only to represent the estate of the deceased.

[11]. In view of aforesaid, I deem it appropriate to endorse the orders passed by the trial Court.

[12]. Disposed of accordingly.

September 21, 2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No