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

CR No. 7144 of 2018 (O&M)
Date of Decision: 22.10.2018

Furkan Ali (since deceased) through LR

-Petitioner

Vs

Rakesh Tyagi and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Anshul Mangla, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

CM-22966-CII-2018

This is an application for bringing on record the legal representative of deceased-petitioner.

For the reasons mentioned in the application, the same is allowed and the legal representative of the deceased-petitioner namely Khamriyab Khan is ordered to be brought on record, subject to just exception.

Main case

Perusal of the impugned order would show that while rejecting the application for framing of additional issue in respect of the suit being barred under Order 2 Rule 2 CPC, the trial Court has observed that issue No.2 regarding

maintainability of the suit would cover the plea/prayer for framing of additional issue.

In the written statement filed by the defendant, paras no.1 and 2 of the preliminary objections would show that both the pleas of Order 2 Rule 2 CPC and *resjudicata* have been set up as a defence.

The framing of issue No.2 in respect of maintainability of the suit would suffice to answer the claim of the petitioner. The Court has also noticed incriminating facts in para no.5 of the impugned order.

In the light of observations recorded by the trial Court, there is no error of jurisdiction in the impugned order.

This revision petition is accordingly, dismissed.

22.10.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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