

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

**CR No.7631 of 2015 (O&M)
Date of decision : January 17, 2018**

Manjit Kaur

..... Petitioner

Versus

Joginder Singh (deceased) through LR and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. H.S. Dhandi, Advocate for the petitioner.

Mr. P.K. Garg, Advocate for the respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 23.10.2015 (Annexure P-3) passed by learned Addl. Civil Judge (Sr. Divn.), Sunam, vide which in a petition filed under Section 25 of the Guardians and Wards Act, 1890 (for short 'the Act') pending before the said Court, Amolak Singh and Inderjit Singh sons of the deceased Joginder Singh have been brought on record as legal heirs in addition to Sukhwinder Kaur alias Jaswant Kaur wife of said Joginder Singh, who is already on record.

Heard.

The controversy in the present case is that a petition under Section 25 of the Act for custody of minor children, namely Harpreet Singh and Rufpreet Kaur is pending between Manjit Kaur, mother of the children and Joginder Singh, grand father of the children. Dalwinder Singh, father of the children is already dead. During the pendency of the proceedings, Joginder Singh, grand father of the children died. Therefore, his wife

Sukhwinder Kaur alias Jaswant Kaur was impleaded as his legal heir and is

pursuing the case on behalf of her husband Joginder Singh being wife of deceased Joginder Singh and grand mother of the children. Now, Amolak Singh and Inderjit Singh sons of Joginder Singh filed an application for impleading them as legal heirs of Joginder Singh, claiming that Joginder Singh had executed a registered Will, in which they have 2/3 share and 1/3 share is go to Harpreet Singh, minor, grandson of Joginder Singh and that in the Will they have have been given right to look after the property of the minor till attaining the age of majority.

I am of the view that the custody dispute of the minors is pending between the mother and the grandfather. After the death of grandfather of the minors, the grandmother is pursuing the case on behalf of her husband. Even if, Amolak Singh and Inderjit Singh sons of Joginder Singh have been given any right to manage the share of one of the minors that does not mean that they are entitled to custody of the children also. The custody of the minors was the personal right of Joginder Singh, which is now being claimed by the grandmother of the children. Amolak Singh and Inderjit Singh have nothing to do with the guardianship of the minors. Therefore, when the grandmother of the children has already been impleaded as party, they cannot be impleaded as legal heirs of Joginder Singh. As such, the impugned order is patently illegal and is hereby set aside.

As such, the present revision petition is allowed.

(KULDIP SINGH)
JUDGE

January 17, 2018

sarita

Whether speaking / reasoned

Yes

Whether Reportable:

No