

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

C.R.No.7669 of 2016
Date of Order: 02.02.2018

Raj Kamal

....Petitioner

Versus

Gian Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Verma, Advocate for the petitioner.
Mr. H.K. Aurora, Advocate for the respondent.

AMIT RAWAL, J (ORAL)

Present revision petition is directed against the impugned order dated 30.8.2016 whereby the application moved by Hardeep Singh for impleading him as LR of deceased plaintiff, on the basis of a registered will dated 20.4.2006 executed by Gian Saroop (since deceased), has been allowed.

Briefly facts of the case are that the plaintiff-Gian Kaur filed a suit for specific performance on the basis of an agreement to sell dated 09.7.2010 executed by defendant-Raj Kamal in respect of the land in dispute. During the pendency of the suit, she (plaintiff) died and her husband-Gian Saroop was brought on record as they were issueless. Gian Saroop also died and during his lifetime, said Gian Saroop executed the aforesaid Will vide which Hardeep Singh was conferred the title of property.

Learned counsel for the petitioner-defendant submitted that the

impugned order is not sustainable in the eyes of law as said Hardeep Singh was not at all related to the plaintiff or his family and cannot be considered to be the legal representative of the plaintiff being a stranger. It is alleged that Hardeep Singh has no concern with the property and the will executed in his favour is forged and fabricated one.

Learned counsel for the respondent submitted that Gian Saroop admittedly was husband of Gian Kaur and they died issueless, bequeathing the share of their immoveable property in favour of Hardeep Singh. The Court has to see only agreement to sell for the purpose of adjudication of the suit and the application for impleading LRs would also be for that purpose and not beyond. Raj Kumar cannot claim any right viz-a-viz the right and interest of Gian Saroop.

During the course of arguments, learned counsel for the respondent has also pointed out that a criminal case was also registered but that cannot be given credence at this stage. It is urged that no illegality or perversity can be found with the impugned order.

I have heard learned counsel for the parties and apprised the paper book.

There is no force in the contentions raised by learned counsel for the petitioner and it is the classic case where the defendant is using all possible tactics in delaying adjudication of suit. Plaintiff-Pardeep Kumar can not be brought on record as LR of Gian Saroop being nephew on account of provisions of Section 8 of the Hindu Succession Act as in a suit for specific performance he has no role to play. The trial Court has impleaded Hardeep Singh only to show LR of Gian Saroop. There is no class-I heir and he is not going to be benefited on the basis of testamentary

document executed by Gian Saroop. In view of the impugned order having been challenged herein, further proceedings in the trial Court had been stayed on 16.11.2011. Present revision petition, in my view, is reckless proceedings and the same is dismissed with costs of Rs.25,000/-.

February 02, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No