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

**Civil Revision No.7465 of 2015 (O&M)
Date of Decision: 03.12.2019**

**Baldev Singh Through LR Paramjit Kaur
.....Petitioner**

Vs

**Hargopal Singh and others
....Respondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Ms. Harpreet Kaur Dhillon, Advocate
for the petitioner.

None for respondent No.1.

Mr. Manpreet Singh, Advocate for
Mr. Parvez Chugh, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J.

[1]. Challenge is made to the order dated 03.07.2015 passed by the executing Court, vide which heirs/legal representatives of Baldev Singh have been ordered to be brought on record.

[2]. Perusal of the record would show that three suits were consolidated by the trial Court. The suit filed by Baldev Singh against his son Hargopal Singh and others was for possession of the suit land and for permanent injunction. The suit filed by Tarlok Singh against Baldev Singh and Hargopal Singh was for

specific performance of agreement to sell dated 18.11.2003 and the suit filed by Pippal Singh against Baldev Singh and Hargopal Singh was also for specific performance of agreement to sell dated 18.11.2003. After consolidation of the aforesaid suit(s), the trial Court decreed the suit of Baldev Singh for possession with a direction to the defendants to hand over vacant possession of the suit property within specified time. The suit(s) filed by Tarlok Singh and Pippal Singh for specific performance were dismissed. However, they were held entitled to recover the earnest money along with interest vide judgment and decree dated 24.12.2011 passed by the trial Court.

[3]. The decision of the trial Court has been upheld upto the Hon'ble Apex Court. Thereafter, Baldev Singh died on 13.06.2014. In the execution, Paramjit Kaur widow of Baldev Singh filed an application for bringing on record herself as legal representative of deceased Baldev Singh on the basis of Will dated 06.06.2000. Only Tarlok Singh, judgment debtor No.2 opposed the application. Judgment debtors No.3 and 4 made a statement that they have no objection if the application is allowed. Judgment debtor No.1 Hargopal Singh was proceeded against *ex parte*. Judgment debtor No.2 Tarlok Singh is not the legal representative of deceased Baldev Singh in any manner.

[4]. Learned counsel for the petitioner submitted that the

factum of Will dated 06.06.2000 has been established in an independent Civil Suit No.155 of 2017 filed by Tarlok Singh against Paramjit Kaur and Hargopal Singh. Vide the aforesaid suit, Tarlok Singh sought declaration to the effect that Paramjit Kaur is not the wife of late Baldev Singh. The suit was contested by the petitioner Paramjit Kaur. Hargopal Singh was proceeded against *ex parte*. The Will dated 06.06.2000 has been established by Paramjit Kaur, to whom the property was bequeathed vide the said Will. The Will was not found to be the result of any fraud and fabrication. The aforesaid findings have been recorded in the judgment and decree dated 08.05.2019 passed by the trial Court vide which Tarlok Singh remained unsuccessful in seeking declaration that Paramjit Kaur is not widow of late Baldev Singh.

[5]. Learned counsel further submitted that vide order dated 18.12.2018, a petition under Section 276 of the Indian Succession Act filed by Paramjit Kaur against General Public, Hargopal Singh and Jodhveer Singh has been allowed and probate and letter of administration on the basis of Will dated 06.06.2000 has already been issued in favour of the petitioner Paramjit Kaur. The said order has not been assailed by anyone.

[6]. I have considered the submissions made by learned counsel for the parties.

[7]. Normally all the legal heirs of the deceased are required to be brought on record, irrespective of their individual *inter se* title to be decided in an independent forum. In the instant case, the Will has been established as a matter of fact in the Court. Probate has already been granted in favour of the petitioner. The application filed by the petitioner has not been opposed by other legal heirs of deceased, rather the same was opposed by Tarlok Singh only, who has nothing to do with inheritance of the Baldev Singh in any manner. Tarlok Singh unsuccessfully contested the suit for specific performance upto the Hon'ble Apex Court. Secondly his effort to seek declaration that petitioner is not the widow of late Baldev Singh has also been declined in Civil Suit No.155 of 2017 decided on 08.05.2019.

[8]. In view of aforesaid facts, I deem it appropriate to allow the present revision petition. Consequently, the impugned order dated 03.07.2015 passed by the executing Court is set aside. Petitioner is ordered to be brought on record as legal representative/heir of deceased Baldev Singh in the execution proceedings. Normal consequences to follow.

December 03, 2019

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Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No