

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

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**CR No.8668 of 2015(O&M)
Date of Decision:11.7.2019**

NARINDER KAUR AND ANR

.....Petitioners

Versus

NARINDER SINGH AND ANR

.....Respondent

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

Present: Mr.Vinay Saini, Advocate for
Mr. G.S.Nagra, Advocate
for the petitioners.

Mr.Nitin Sharma,Advocate
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

Petitioners have filed this revision petition challenging the order dated 7.8.2015 passed by the Civil Judge (Jr.Divn.) Nakodar, whereby the application filed by the petitioners under Order 22 Rule 3 read with Section 151 CPC for impleading the petitioners and respondent No.2 as legal representatives of deceased Harbans Singh on the basis of registered Will dated 14.2.2011 was dismissed.

The impugned order was passed primarily on the ground that the Will has not been probated so far. Under 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 it will decide *inter se* dispute between the rival legal representatives. The dispute, if any, in respect of inheritance of the parties or title on the basis of Will would be decided by the Court in appropriate forum. By bringing on record all the legal representatives, the Court is not deciding any dispute *qua lis* between the legal representatives in any manner. The provision is only to allow legal representatives to represent the cause of the deceased i.e. to represent the estate for the ultimate benefit of real representatives. The *lis* will be decided at the relevant stage. At this preliminary stage, no title between the legal representatives is to be settled by the Court.

In ***Charanjit Singh and another vs. Bharatinder Singh and others, 1987(1) PLR 403*** and ***Mohinder Kaur and another vs. Para Singh and others, AIR 1981 Punjab and Haryana 130(1)*** it was held that the proper course for the Court 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 legal representatives. In ***Suresh Kumar Bansal vs. Krishna Bansal and another, (2010) 2 Supreme Court Cases 162***, the Hon'ble Apex Court has held that the provision in terms of Order 22 Rule 5 CPC is only for the purpose of bringing on record legal representatives of deceased 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.”

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.

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 and in **CR Nos.6861 and 6906 of 2017 (O&M)** titled '**Rampal and others**

vs. Saroj and others' decided on 21.09.2018.

For the reasons recorded herein above, I deem it appropriate to set aside the impugned order and allow the application for impleading the petitioners and respondent No.2 as legal representatives of deceased Harbans Singh. However, it is made clear that the aforesaid impleadment would not give rise to any such inference regarding validity of Will in question. The parties would be at liberty to establish their title in appropriate forum in accordance with law.

Petition stands disposed of accordingly.

July 11, 2019 anita	(RAJ MOHAN SINGH) JUDGE
Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No