

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203/2

Civil Revision No.839 of 2017

Date of Decision: April 03, 2019

Swaran Singh

.....Petitioner

versus

Jagdeep Kaur (Since deceased) through LRs

.....Respondents

CORAM: HON'BLE MR.JUSTICE DEEPAK SIBAL

Present: Mr.Vikas Gupta, Advocate for the petitioner.

Mr. Veneet Sharma, Advocate for the respondents.

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 05.09.2016 passed by Civil Judge, (Junior Division), Patti (for short-the Executing Court) through which respondents No.1A and 1B have been impleaded as Legal Representatives of Jagdeep Kaur.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that Jagdeep Kaur had filed an application under Sections 18 and 20 of the Hindu Adoption and Maintenance Act, 1956 seeking therein maintenance from the petitioner-husband. In the said proceedings, an application was filed by her seeking interim maintenance. In such application, vide order dated 10.04.2015 the Trial Court directed payment of Rs.5000/- per month by the petitioner to Jagdeep Kaur from the date she had filed the application. The awarded amount was directed to be deposited in her bank account on or before 10th of every month.

Since the petitioner failed to make the above payment, Jagdeep Kaur filed an application before the Executing Court seeking execution of the above referred order of the Trial Court dated 10.04.2015. However, during the pendency of the proceedings before the Executing Court, Jagdeep Kaur died on 08.03.2016 and on the happening of such an event, respondents No.1A and 1B, being sons of the petitioner and Jagdeep Kaur, filed an application seeking their impleadment as legal representatives of Jagdeep Kaur. Such application was allowed by the Executing Court through the order which is under challenge in the present proceedings.

Learned counsel for the petitioner submits that since respondents No.1A and 1B are both major, they are not entitled to claim any maintenance from the petitioner and therefore, no useful purpose would be served by impleading them as legal representatives of Jagdeep Kaur. It is further submitted that if legal representatives of Jagdeep Kaur are to be impleaded then there is another legal heir of Jagdeep Kaur i.e. Manpreet Kaur, who should have also been impleaded. In the absence of the said Manpreet Kaur, the impugned order passed by the Executing Court needs to be set aside.

Learned counsel for the respondents admits that his clients being major, have no right to claim any future maintenance from the petitioner. However, he submitted that the awarded maintenance already paid or to be paid by the petitioner to Jagdeep Kaur till the time of her death, would be Jagdeep Kaur's property and therefore, respondents No.1A and 1B being legal heirs of Jagdeep Kaur would be entitled to succeed her qua that amount. So far as Manpreet Kaur is concerned, learned counsel for the respondents has no objection if she is impleaded as a party to the proceedings.

After hearing learned counsel for the parties, the present petition is disposed of with a direction to the Executing Court to issue notice to Manpreet Kaur d/o Swarn Singh on the address to be supplied by learned counsel for the petitioner appearing for him before the Executing Court and thereafter proceed in accordance with law to implead her as legal representative of Jagdeep Kaur. Thereafter, the Executing Court shall proceed to recover from the petitioner the amount of maintenance due towards Jagdeep Kaur till the date of her death and then apportion the same amongst all the legal representatives of Jagdeep Kaur including the petitioner.

April 03, 2019

*sonia arora***[DEEPAK SIBAL]
JUDGE**

Whether speaking/reasoned :

Yes/No

Whether Reportable :

Yes/No