

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

competent Court. The revision petition was allowed to be withdrawn with a liberty to the petitioner to avail any other remedy in accordance with law. Thereafter, suit for declaration was filed which is statedly pending. Another application was filed under Order 1 Rule 10 CPC for impleading Baldev Singh as he was conversant with the facts of the case being son of Shiv Ram. The said application has also been dismissed by the trial Court on the ground that Shiv Ram has not been declared to be civilly dead by the competent Court, therefore, petitioner is not entitled to be impleaded with the aid of Order 1 Rule 10 CPC.

Learned counsel refers to Kulwinder Kaur vs Raghbir Singh, 1998(4) RCR (Civil) 381 and contended that even though Shiv Ram cannot be presumed to be civilly dead in the absence of such declaration as on date, but still the petitioner being son of Shiv Ram is a necessary party who can be impleaded to represent the cause of Shiv Ram in order to avoid any adverse order in the absence of Shiv Ram.

Notice of motion for 16.05.2019.

Till the next date of hearing, trial Court shall adjourn the proceedings beyond the date fixed by this Court.”

[3]. Learned counsel for the respondent submitted that respondent has no objection in case Baldev Singh is allowed to defend on behalf of Shiv Ram, whose whereabouts are not known for the last more than seven years. Precisely for declaring Shiv Ram to be civilly dead, Baldev Singh has already filed a suit for declaration and the same is pending.

[4]. Learned counsel further submitted that Baldev Singh son of the petitioner Shiv Ram be bound down with the liability to answer the claim of the plaintiff in case Shiv Ram turns up during pendency of the suit for declaration and denies his

liability by claiming connivance of his son Baldev Singh with the plaintiff.

[5]. Learned counsel for the petitioner accepted the aforesaid proposal floated by learned counsel for the respondent and undertakes to answer the claim of the plaintiff/respondent in case suit is ultimately decreed or even Shiv Ram appears even before the decision of the suit for declaration filed by the petitioner,

[6]. In view of aforesaid terms, this revision petition is disposed of.

[7]. In view of order passed in the main case, there is no need to pass any order in the application filed under Order 22 Rule 3 with Section 151 CPC. All other pending applications also stand disposed of.

September 24, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No