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

Civil Revision No.1665 of 2019

Date of Decision: 11.03.2019

RAFIQ AHMED AND ANOTHERPetitioners

Vs

AKHTAR HUSSAIN AND OTHERS....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Lokesh Sinhal, Advocate
for the petitioners.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioners have challenged the order dated 02.01.2019 passed by the Civil Judge (Jr. Divn.) Faridabad vide which application for bringing on record the legal representatives of deceased defendant No.5 was allowed.

[2]. Plaintiffs filed a suit for declaration, injunction and possession in respect of estate of defendant No.5 which was allegedly relinquished and Will was executed by him in favour of defendants No.1 to 4. Defendant No.5 died during pendency of the suit. An application for bringing his legal representatives on record was filed by the plaintiffs and the same has been allowed by the trial Court.

[3]. I have considered the submissions made by learned counsel for the petitioners.

[4]. At the stage of 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* disputes between the rival legal representatives. The dispute would be settled by the Court at an appropriate stage. The provision is only to allow the legal representatives to represent the cause/estate of the deceased. At this preliminary stage, no title *inter se* between the legal representatives is to be settled by the Court.

[5]. 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.”

[6]. 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.

[7]. 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.

[8]. In view of aforesaid legal position, I find no error of jurisdiction in the impugned order passed by the trial Court. This revision petition is accordingly dismissed.

March 11, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No