

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 484 of 2020 (O&M)

Date of Decision: 18.2.2020

Hari Singh

...Petitioner

Vs.

Sanju and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vijay, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. When this matter came on for hearing on 27.1.2020, I
passed the following order after hearing counsel for the petitioner:

*“It may be noticed that plaintiff-
Sanju is the widow of Raj Kumar S/o Hari
Singh (who died in the motor accident).
Hari Singh is the defendant in the suit. The
late Raj Kumar had bought insurance
policy in which his father Hari Singh was
the nominee. On the death of Raj Kumar,
the Insurance company discharged its
liability by payment of the premium on the
policy running into Rs. 25 lakhs to Hari
Singh. Hari Singh is not a Class-I heir of
his son Hari Singh is a Class-II heir of
late son Raj Kumar. Sanju is a Class-I
heir. The mother of Raj Kumar is also a
Class-I heir but she was not arrayed as
defendant in the suit filed by Sanju for the
recovery of insurance amount from Hari*

Singh. From the marriage, there is a girl child who is minor. Sanju is said to have remarried in the year 2012. Raj Kumar died on 6.4.2010.

Learned counsel says that minor child is being looked after by her grandparents. The suit filed by Sanju under The Hindu Minority and Guardianship Act, 1956 in the Guardian Court, Gurugram stands dismissed. Instead of parties wasting years in Court in revision and appeals, this Court believes that solution is possible in view of the legal status of the parties over claim of insurance amount.

The interest of the minor child have to be protected by the Court and the sooner it is done the better it is. But Hari Singh can have no lawful claim as Class-II heir in the presence of Sanju and her ex mother-in-law, (mother of the deceased).

Therefore, it is found necessary to call upon the petitioner to implead his wife as petitioner No.2 by way of a direction issued ex debito justitiae by this Court.

Petitioner to file amended memo of parties (without office raising objection that the parties don't exactly match the parties in the suit). Upon which let notice be issued to Sanju and Neha (minor) through the petitioner, who is presently in custody of the minor girl, returnable by 18.2.2020.

If the amended memo is not filed within a week, the petition shall stand automatically dismissed without orders of this Court.

The file of the original suit CNR No. HRGRBO-000119-2011, CIS No. Cs. 909.2014 titled Sanju Vs. Hari Singh is withdrawn from the Board of the Civil Judge, Junior Division, Pataudi and brought to this Court in exercise of powers under Section 24 CPC to try to dispose of the suit itself.

The suit stands removed from the trial Court.

File be requisitioned.”

(underscored for emphasis)

2. Learned counsel for the petitioner has brought good tidings to court. The Civil Judge (Junior Division) Pataudi where the widowed plaintiff No.1-Sanju (presently respondent No.1) appeared before the court and withdrew the case for the reason that she has entered into a compromise [Ex. CI] with defendant No.1-Hari Singh (petitioner herein and her father-in-law) and therefore she does not wish to pursue the suit any longer as she has been settled with her share of the insurance amount under an insurance policy bought by her late husband.

3. The learned Civil Judge has passed order on 29.1.2020, a photocopy of which has been produced before this Court at the Bar which is accepted as true. The same read as follows:

“Today case was fixed for defendant evidence. No DW is present. At this stage, plaintiff duly identified by his counsel appeared before the Court, got record his separate statement that he has entered into compromise Ex. C1 with defendant No.1 and does not wish to pursue the present

case any further and the same may be dismissed as withdrawn. Statement of plaintiff in this regard recorded separately. In view of the aforesaid statement of the plaintiff, the present case has been dismissed as withdrawn. File be consigned to record room after due compliance.”

4. The photocopy of the signed/thumb-marked statement of Ms. Sanju has been produced by her counsel acknowledging the fact that Rs.10,00,000/- (Rupees Ten Lakhs) has been received by her from her father-in-law in full and final settlement of the insurance claim. The photocopy of the order and the recorded statement is taken on record as Mark 'A' (3 pages) to form part of this order.

5. In terms of the compromise arrived at between the parties in the trial court, the petition is rendered infructuous.

6. Petition is dismissed as infructuous.

7. Part of the order transferring suit on the board of this court for disposal of the suit is recalled.

(RAJIV NARAIN RAINA)
JUDGE

18.2.2020

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Whether speaking/reasoned : Yes
Whether reportable : Yes