

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

**C.R. No. 7023 of 2018 (O&M)
Date of Decision: 19.02.2020**

Rajni Ahuja & Ors.

...Petitioners

Vs.

Radhey Shyam Adlakha (D) through his LRs.

...Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Sanjay Vij, Advocate, for the petitioner.

Ms. Priyanka Sud, Advocate, for the respondents.

ALKA SARIN, J.

C.M No. 22603-CII of 2018

This is an application for impleading the legal representatives of Radhey Sham, respondent No.1.

For the reasons stated in the application, the same is allowed and the legal representatives mentioned in para No.1 of the application are impleaded as a party.

C.M No. 22604-CII of 2018

This is an application under Order 1 Rule 10 CPC for impleading Kumud Verma and Sanjay Verma as co-petitioners.

The proposed petitioners No. 3 and 4 are not parties to the suit and have till date not preferred an application for being impleaded as party in the civil suit.

At this stage without commenting on the merits of the application, this Court deems it proper to dispose of the present application granting liberty to Kumud Verma and Sanjay Verma, to move an application

for being impleaded as a party in the civil suit, if so advised. In case any such application is moved, the same shall be dealt with by the trial Court in accordance with law.

C.R. No. 7023 of 2018 (O&M)

The present revision petition has been filed by the four petitioners, out of which petitioner Nos. 1 and 2 are the parties in suit and petitioner Nos. 3 and 4 are not parties before the Court below, against the order dated 18.07.2018 whereby the Appellate Court, on miscellaneous appeal arising out of the order dated 01.02.2018, has invoked the provisions of Section 29 of the Hindu Succession Act, 1956 (hereinafter referred to as, 'the Act') and referred the matter to the Collector for ascertaining if there are any other legal heirs of deceased – Lurind Chand Adhlakha.

Both the counsel submit that the said order is totally beyond jurisdiction and the provisions of Section 29 of the Act could not have been invoked.

Section 29 of the Hindu Succession Act, 1956 reads as under:-

“29. Failure of heirs.-If an intestate has left no heir qualified to succeed to his or her property in accordance with the provisions of this Act, such property shall devolve on the Government; and the Government shall take the property subject to all the obligations and liabilities to which an heir would have been subject.”

In the present case, the issue before the Court was regarding the non-grant of interim injunction by the trial Court. However, in the miscellaneous appeal the Appellate Court invoked the provisions of Section 29 of the Act. A perusal of the above reproduced Section clearly reveals that

there is no such power vested in the Collector and in case a person dies intestate, such property would devolve on the Government.

These are issues which are yet to be gone into by the Trial Court. On an application under Order 39 Rule 1 and 2, such an order is absolutely uncalled for.

In view of the above, the present revision petition is allowed qua petitioner Nos. 1 and 2. Order dated 18.07.2018 is hence set aside.

The revision petition is disposed of in the aforementioned terms.

February 19, 2020
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(ALKA SARIN)
JUDGE