

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

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**CR No. 8454 of 2017
Date of decision : 8.1.2020**

Tarandeep Kaur and another

.....Petitioner

Vs.

Harpal Kaur (deceased) through LR's and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Abhinav Jain, Advocate, for the petitioners

Mr. G.S. Brar, Advocate, for respondents No. 1(1) and 2

Rajbir Sehrawat, J. (Oral)

This petition has been filed under Article 227 of the Constitution of India praying for setting aside the order dated 28.10.2017, passed by Additional Civil Judge (Senior Division), Gidderbaha, vide which the application filed by the petitioners for impleading them as LR's of deceased Harpal Kaur, plaintiff No.1 in the suit, was dismissed and another application filed by Manjit Kaur-respondent No.2, for impleading her as LR of deceased Harpal Kaur, plaintiff No.1, was allowed. It is further prayed that during the pendency of the present petition, proceedings before the trial Court be stayed.

Learned counsel for the petitioners has submitted that the Court below has committed illegality in declining the application filed by the petitioners for being impleaded as legal representatives of Harpal Kaur-plaintiff No. 1 in the original suit, whereas, at the same time the application filed by respondent No.2/plaintiff No.2, for impleading as LR of plaintiff No.1, has been allowed.

As per the facts on record, the original suit was filed by the

deceased Harpal Kaur and her daughter Manjit Kaur- respondent No.2, challenging the Will, allegedly executed by Jangir Singh, the husband of plaintiff No.1 and father of plaintiff No.2, in favour of his sons Baljit Singh @ Puppy-defendant No.1 and Bharpur Singh @ Sukhpal Singh-defendant No. 2 in the original suit. During the pendency of the suit, plaintiff No.1 expired. Accordingly, two separate applications were filed, one by plaintiff No.2 in her capacity as daughter of plaintiff No.1 and the second by the present petitioners, who happens to be daughters-in-law of plaintiff No.1, however, who claimed to be the legal representatives on the basis of alleged registered Will dated 17.8.2009 executed in their favour by deceased Harpal Kaur. The trial Court has dismissed the application filed by the petitioners/daughters-in-law, whereas, has allowed the application filed by the daughter i.e. respondent No.2 herein. It is that order which is under challenge.

The paper book of the case also shows that daughters-in-law/the petitioners have also filed a separate suit mainly against respondent No.2 on the basis of aforesaid alleged registered Will of deceased Harpal Kaur; dated 17.8.2009, seeking therein declaration of ownership and possession of the suit property. The interest in the present suit is also claimed on the basis of the said alleged Will only. However, it has been brought on record by respondent No.2 that the said alleged registered Will dated 17.8.2009 was, allegedly cancelled by another registered Will dated 7.7.2014. This cancellation of earlier Will has not been set aside by any Court so far. Hence, the present petitioners cannot legally claim any status as legal representatives of Harpal Kaur in the present proceedings on the basis of the said Will, although they may be entitled to claim and prove the existence and legality of the Will in their favour in their

own above mentioned separate suit. Hence, the Court below has rightly declined the application filed by the petitioners for impleading them as plaintiffs in the present suit.

So far as the allowing of the application filed by respondent No.2 for being impleaded as a legal representative of her mother is concerned, there cannot be even a dispute qua the legal status of respondent No.2 as legal representative of her natural mother.

In view of the above, this Court does not find any illegality or irregularity in the order passed by the Court below. Hence, finding no merit in the present petition, the same is dismissed.

However, it is clarified that mere non-impleadment of the present petitioners as legal representatives in the present suit; would not be taken as adverse to them in their separate suit, which has already been filed by them on the basis of the above said alleged Will of Harpal Kaur.

(RAJBIR SEHRAWAT)
JUDGE

8.1.2020

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No