

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 8052 of 2019 (O&M)

Date of Decision: 13.02.2020

Surjit Singh

.....Petitioner

Vs.

Miss Aasleen Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Nandan Jindal, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order of the learned trial court dated 28.08.2019, allowing the review application filed by respondent no. 1 Aasleen Kaur but dismissing such application filed by the petitioner, i.e. Surjit Singh [paternal grand-father of Aasleen Kaur (minor)].

While allowing the application of the first respondent, the trial court has gone strictly by the method of succession provided in Sections 8, 15 and 16 of the Hindu Succession Act, 1956, and therefore held that the judgment earlier passed by the predecessor of that court qua 1/3rd share of the suit property in the suit filed by the respondent, was incorrectly decided, inasmuch as, as regards the devolution of the share of the mother of Aasleen Kaur who died after her husband, i.e. the father of Aasleen Kaur, it should have actually devolved upon respondent no. 1 Aasleen Kaur.

Learned counsel for the petitioner in fact does not challenge that finding, it being in consonance with the provisions of the aforesaid Act.

The petitioner however, is aggrieved of the fact that his review application has been dismissed, by which he sought that the liabilities incurred by the proprietorship firm of the father of Aasleen Kaur, having been discharged by the petitioner, such liabilities were to be deducted from the estate of Aasleen Kaurs' father, (Surpreet Singh), i.e. the petitioners' son, before his estate could be divided even in terms of the aforesaid Act.

Upon specific query to learned counsel as to whether any evidence with regard to such liabilities having been discharged by the petitioner was led at the time that the suit was originally decided, he very fairly submits that no such evidence was led.

That being so, I see no error in the impugned order, it being one passed in a review application and the application filed by Aasleen Kaur having been accepted on the ground that the original judgment/order was passed in contravention of the statutory provision and therefore was a judgment in which there has an error patent on the face of the record.

However, as regards the application of the petitioner, naturally, with no evidence having been led qua any liability discharged by the petitioner as regards the firm of the late Supreet Singh, or even in Surpreet Singhs' personal capacity, naturally that was not an error patent on the face of the record as could have been rectified by the court, in a review application.

Consequently, this petition is dismissed in *limine*.

Learned counsel for the petitioner has submitted that he may be granted liberty to file a suit seeking recovery as regards the liability discharged by the petitioner.

This court would make absolutely no comment on the aforesaid contention, because if any such suit is instituted by the petitioner, naturally it

would be decided wholly on its own merits.

February 13, 2020
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes