

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

CR-1727 of 2021 (O&M)

Date of decision: 28.09.2021

Kewal Krishan (since deceased thr. LRs) and another

...Petitioners

Versus

Sadhu Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Kashish Garg, Advocate for the petitioners.

Mr. Suresh Singla, Advocate for the caveators.

H.S. MADAAN, J.

Case taken up through video conferencing.

CM-9112-CII-2021

This is an application for impleading LRs of deceased petitioner No.1-Kewal Krishan. Heard. Allowed subject to all just exceptions. Amended memo of parties has been filed, which be taken on record.

Main Case

By way of filing the instant revision petition, revisionist Kewal Krishan (since dead) and his widow Amra Devi, defendants/counter claimants challenged order dated 08.07.2021 (Annexure P-10) passed by Civil Judge (Jr. Divn.) Bathinda, vide which oral prayer of plaintiffs with regard to non-filing of written statement to counter claim of defendants No.6 and 7 was accepted after a period of 06 years of filing of counter claim when the plaintiffs had already led

evidence and even one of the defendants witness had been cross-examined.

The operative part of the impugned order runs as follows:-

“It is forthcoming from the earlier statements made by the counsels for the parties that neither party was aware of the written statement and counter claim filed on 21.12.2015. Furthermore, learned counsel for the plaintiff has clearly stated that he does not wish to raise any new issue or claim and he does not wish to file any fresh written statement to the counter claim filed by defendants No. 6 and 7 and written statement filed by him to the counter-claim filed by defendants no. 4 and 5 be read as written statement to the counter claim filed by defendants No. 6 and 7. Additionally, it is settled preposition of law that procedure is hand-maid of justice and the procedural technicalities should never prevail over substantial justice. In view of the peculiar circumstances of the present case and settled proposition of law, this Court is of considered opinion that no prejudice will be caused to the defendants/counter-claimants No.6 and 7, if the statement suffered by the plaintiffs is allowed, as no new claim has been raised by them. Further it will assist the Court in deciding the controversy involved in the present case effectively. Accordingly objections raised by the defendants/counter-claimants No. 6 and 7 stand dismissed.”

Briefly stated facts of the case are that, plaintiffs Sadhu Singh and others had brought a suit against defendants Shivnandan Lal and others seeking decree for permanent injunction, restraining the defendants from dispossessing the plaintiffs illegally and forcibly from their share of land total land measuring 69K-1M situated within revenue limits of Village Bhucho Kalan, Tehsil & District Bathinda along with

consequential relief etc.

Notice of the suit was given to the defendants, who put appearance and filed written statements. Defendants No.6 and 7 had filed a counter claim also. Issues on merits were framed. Matter having gone to the Apex Court, a direction was issued to the trial Court to decide the case within 09 months. The counter claim was ordered to be attached with the main case.

After hearing learned counsel for the revisionists and going through the record, I find that no interference with the order by way of exercising revisional jurisdiction is called for, rather, the order is quite detailed, well reasoned and it does not from any illegality or infirmity. The revision petition is doomed for failure and is dismissed accordingly.

28.09.2021

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No