

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

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**CR No. 2796 of 2021
Date of decision : 15.11.2021**

Khileshwari Patel

.....Petitioner

Vs.

Paramjit Kaur and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. A.K. Viridi, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This petition has been filed under Article 227 of the Constitution of India read with Sections 115 and 151 CPC for setting aside the impugned order dated 4.3.2020 (Annexure P-1), passed by the Additional Civil Judge (Senior Division), Panchkula, whereby the application under Rule 1 Order 10 read with Section 151 CPC, filed by the petitioner-revitionist, has been dismissed. Further prayer of the petitioner is for stay of the further proceedings in Civil Suit No. CS/395/2018 titled as 'Paramjit Kaur and others v. Corporation Bank and others' pending in the Court of Additional Civil Judge (Senior Division), Panchkula. It is also prayed that respondent No.5 be directed to place the original video recordings and the documents; including the statements/transcript version of the above said video dated 16.5.2018 before the Court.

The necessary facts involved in the matter are that Shivinder Singh, husband of respondent No.1 and father of respondents No.2 and 3 has expired. He was having some bank account and fixed deposits with Punjab National Bank. After his death, respondents No.4 and 5 tried to operate the

said account of deceased Shivinder Singh. Challenging their action, respondents No.1, 2 and 3 filed suit for injunction restraining respondents No.4 and 5 from operating the account of deceased Shivinder Singh. It is at this stage of the suit, the petitioner filed an application for impleading herself as defendant No.7. The said application has been declined by the Court below by observing that the petitioner is neither necessary nor proper party for adjudication of the case.

The counsel for the petitioner has submitted that the petitioner has served the deceased for a long duration of 18 years. Immediately before his death, the deceased is stated to have made a statement in a video recording to the effect that the petitioner should be given Rs. 35 lakhs out of his estate. The petitioner being a domestic servant, is entitled to the said benefit under Section 322 of the India Succession Act, 1925 (in short 'The Act'). Hence, the petitioner is a necessary party for proper adjudication of the matter involved in the case.

Having heard counsel for the petitioner and having perused the case file, this Court does not find any ground to interfere with the order passed by the Court below. It is obvious that the petitioner is not one of the natural heirs of the deceased. The petitioner is not even any functionary of the bank, where the accounts are stated to be in existence. The respondent/plaintiffs are not even claiming any relief against the petitioner. Hence, the petitioner is not a necessary party for adjudication of the issue involved in the suit; by any means. Otherwise also, the petitioner is not even a proper party for adjudication of the case. Whatever claim the petitioner is making, whether sustainable or not, may be subject matter of a separate suit for recovery which

the petitioner may file, if so desires. However, that would not make the petitioner as a proper defendant in the present suit. By way of defence of the present suit alone, the petitioner cannot claim anything as such, even if her claim is taken as genuine and legally sustainable.

So far as the sustainability of the claim of the petitioner is concerned, the counsel for the petitioner has relied only upon Section 322 of the Act. However, a bare perusal of the said section makes it clear that under the said section, a domestic servant is required to be reimbursed only wages for 3 months next preceding the date of death of person to whom such servant was rendered. Beyond the alleged wages of 3 months, no claim can be raised by a domestic servant under Section 322 of the Act; qua the estate of the deceased. It is not even the case of the petitioner that she is claiming 3 months wages as counted from prior to the date of death of the deceased. Rather her claim is for Rs. 35 lakhs out of the estate of the deceased on the basis of some video statement. Hence, the claim of the petitioner itself is not sustainable under Section 322 of the Act.

In view of the above observation, the present petition is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

15.11.2021

Ashwani

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