

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

144

CR-32-2022

Date of Order: 17.05.2022

SONA DEVI

..Petitioner

Versus

TEJ KAUR AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harsh Aggarwal, Advocate
for the petitioner.

Mr. Sherry K. Singla, Advocate
for respondent No.1

ANIL KSHETARPAL, J(Oral)

The defendants have filed the present revision petition against an interlocutory order passed by the trial Court on 18.10.2021, while allowing application under Order 1 Rule 10 CPC.

Smt. Tej Kaur (respondent herein) filed a suit for declaration. She is a daughter of late Smt. Surjit Kaur @ Meeto who was daughter of late Sh. Kapur Singh. The dispute is with regard to the estate of Sh. Kartar Singh son of late Sh. Kapur Singh. Late Smt. Surjit Kaur @ Meeto was the sister of late Sh. Kartar Singh. Apart from the property inherited from late Sh. Kapur Singh, late Sh. Kartar Singh and late Sh. Baldev Singh, also, received some property by way of gift from Sh. Puran Singh. In a previous suit, late Sh. Kartar Singh and late Sh. Baldev Singh have been declared as owners to the extent of equal share to the property received from Sh. Puran Singh. It is claimed that the property received through the gift executed by Sh. Puran Singh on 06.05.1964, has been wrongly mutated in favour of the legal heirs of late Sh. Baldev Singh. Smt. Tej Kaur has filed a suit claiming that the aforesaid entry in the revenue record is incorrect.

During the pendency of the suit, she filed an application under Order 1 Rule 10 CPC for bringing on record the other heirs of late Sh. Kartar Singh who is stated to have remained unmarried till death. Consequently, she filed an application to bring on record his brothers and sisters. The application was allowed by the Court treating it to be an application for bringing on record the legal representatives of the relevant persons. The Court appears to have overlooked that the application was filed under Order 1 Rule 10 CPC.

In any case, this Court has heard the learned counsel representing the parties as a trial Court.

The learned counsel representing the petitioner contends that the application has been incorrectly allowed. He submits that all the legal representatives of late Smt. Surjit Kaur who were sought to be impleaded have not been impleaded as defendants in the suit.

The learned counsel representing the respondents admits that the trial Court has committed a mistake in this regard.

In para 4 of the application, the plaintiff had sought impleadment of the following persons:-

“7) Hardev Singh 8) Sukhdev Singh sons of Kapoor Singh, residents of Raidharana, District Sangrur 9) Mukhtiar Singh s/o Surjit Kaur @ Sitto d/o Kapoor Singh 10) Mahinder Singh 11) Naranjan Singh 12) Joginder Singh 13) Gurcharan Singh sons of Surjit Kaur @ Sitto d/o Kapoor Singh, residents of Village Janal, Tehsil Dirba, District Sangrur 14) Mukhtiar Kaur d/o Surjit Kaur @ Sitto 15) Mahinder Kaur d/o Surjit Kaur @ Sitto, residents of Village Harigarh, Tehsil Dirba, District Sangrur 16) Karamjit Kaur d/o Surjit Kaur @ Sitto, r/p Village Kalodi, Tehsil & District Sangrur 17) Rajinder Kaur d/p Surjit Kaur @ Sitto, r/o Balad Kalan, Tehsil & District Sangrur.”

As per the impugned order all the persons sought to be impleaded as parties were not so impleaded.

This Bench has heard the learned counsel representing the parties and with their able assistance perused the paperbook.

The learned counsel representing the respondent (plaintiff) submits that in such suit, although, the heirs of late Smt. Surjit Kaur are claiming on the basis of a registered Will, however, the natural heirs of late Sh. Kartar Singh are required to be impleaded.

Keeping in view the aforesaid facts, the order under challenge is modified. All the persons noticed above are impleaded as defendants. The objection with regard to the limitation is kept open.

With all these observations, the present petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

May 17th, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*