

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP no.1842 of 2022 (O&M)
Date of Decision:27.04.2022

Deepak Mehta and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Abhimanyu Singh, Advocate, for
for the petitioners.

AMOL RATTAN SINGH, J. (ORAL)

Vide this petition, the petitioners seek issuance of a writ in the nature of *certiorari* setting aside the impugned order dated 06.11.2017 (Annexure P-21), passed by respondent no.3/Administrator (HUDA), Panchkula, whereby the appeal filed by them (Class-I legal heirs of the late Shri Ram Dayal Mehta), as also respondent no.3, has been dismissed.

It has been recorded in the impugned order as follows:-

“The perusal of record shows that on 22.1.2014 the appellants were directed to submit legal heir certificate. On 5.3.2014, when adjourned appeal came for hearing, counsel for appellants took another decided case was adjournment to 19.03.2014 and then to 23.0.2014. On 23.04.2014, counsel for appellant submitted a

surviving member certificate dated 22.08.2013 to the effect that Ram Dayal Mehta has expired on 17.07.2012 leaving behind Deepak Mehta and Sonia as surviving members, during the one M.K. Mehta submitted an application dated 31.1.2014 claiming that Pushpa Devi Mehta and M.K. Mehta are also legal heirs of deceased allottee. Therefore, he prayed that he may be allowed to join the present proceedings. He also submitted voter card. Therefore, vide order was passed on dated 23.04.2014, it was decided to issue notice to Sh. M.K. Mehta also.

That appeal filed by Sonia/Deepak Mehta was dismissed in default on 29.1.2016 for non prosecution. Thereafter, application was moved by the appellants for restoration of the appeal on 22.05.2017. In the interest of justice vide interim order dated 7.9.2017 it was decided to hear the main appeal on merits. Therefore, ex-parte order dated 27.1.2016 was set aside and the appeal was decided to be heard on 12.10.2017.

The appeal is fixed for hearing today i.e. 12.10.2017. After hearing and gone through the record placed on file. It is found that the appellants are claiming to be the legal heirs of the deceased. On the other hand Sh. M.K. Mehta and Smt. Pushpa Devi are also claiming themselves legal heir of the deceased. The first question required consideration is the locus standi to file the appeal.

In the aforesaid circumstances, I am of the considered view that appellant have not been able to prove their locus standi to file the appeal. Both the claimants should settle their dispute regarding ownership from the competent court of law. The appeal is dismissed on the ground of locus standi however liberty is given to both the claimants to approach the competent authority for to establish legal heirs should approached to the Estate Officer, HUDA, Kurukshetra for setting aside the resumption order passed by the Estate Officer in view of the policy dated 12.04.2013.”

Learned counsel for the petitioners however wishes to point to the order passed by the learned JMIC, Rajpura, dated 04.05.1983 (copy Annexure P-26), by which one Subhash Kumar (at that time minor) son of Smt. Pushpa Devi (respondent no.5), was found to be not eligible for any maintenance at the hands of Ram Dayal (stated to be the father of petitioners no.1 & 2 and divorced former husband of petitioner no.3).

He thus submits that the claim of respondents no.5 and 6 to being the legal heirs of the aforesaid Ram Dayal Mehta is wholly unsustainable.

Whereas that may or may not be a fact, however since some persons have claimed, rightly or wrongly, to be the legal heirs of that person, simply on the basis of an order passed under the provisions of Section 125 of the Cr.P.C., we would not declare that the petitioners are the sole legal heirs of the aforesaid Ram Dayal Mehta; and naturally the petitioners would be at liberty to seek a declaration by appropriate proceedings to that effect, if they wish.

This petition is disposed of.

(AMOL RATTAN SINGH)
JUDGE

April 27, 2022
dinesh

(LALIT BATRA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes