

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

106

**CR-3073 of 2018
Date of Order: 27.04.2022**

Rur Singh and another

..Petitioners

Versus

Pritam Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Punia, Sr. Advocate, with
Ms. Harveen Kaur, Advocate
for the petitioners.

Mr. J.K.Khetarpal, Advocate
for respondent no.2.

ANIL KSHETARPAL, J(Oral)

While assailing the correctness of the order passed by the Civil Judge (Junior Division), Ludhiana, on an application under Order 1 Rule 10 as well under Order 6 Rule 17 CPC, the plaintiffs have filed the present revision petition.

The plaintiffs have filed a suit for grant of decree of declaration and permanent injunction. They claim that Joginder Singh, their father, had left behind a registered Will in their favour as well as in favour of defendant no.1. The revenue authorities have made an entry in favour of the natural successors. An application filed by the plaintiffs, though at a belated stage, for impleading the legal representatives of late Sh. Narata Singh son of late Sh. Joginder Singh as party-defendants has been dismissed. The Court has dismissed the application on the ground that a similar application filed by the children of Narata Singh was also dismissed.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

The learned senior counsel representing the petitioners contends that if the Court ultimately upholds the Will allegedly executed by Joginder Singh, the children of Narata Singh shall stand deprived of the property. Therefore, he submits that the children of Narata Singh are necessary party.

Per contra, the learned counsel representing respondent no.2 submits that the widow of Narata Singh is already a party to the suit.

On the death of late Sh. Joginder Singh, the property fell in the share of legal heirs of Narata Singh because he had pre-deceased Joginder Singh.

Keeping in view the aforesaid facts, the children of Narata Singh, who have succeeded to the property of late Sh. Joginder Singh are necessary party because if the Court ultimately holds that Joginder Singh had left behind a registered testament, then all other Class-I heirs in the property would get adversely affected. The children of Narata Singh have an independent right in the property of Joginder Singh.

Keeping in view the aforesaid facts, the order under challenge is set aside. The application for impleadment as well as consequential amendment is allowed.

The suit is pending for the last 9 years, therefore, the trial court is requested to decide the suit expeditiously.

Disposed of accordingly.

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

April 27, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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