

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

106

**CR-4769 of 2018
Date of Order: 26.04.2022**

Tanish Jain

..Petitioner

Versus

Lali Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anil Kumar Garg, Advocate
for the petitioner.

Mr. Vishnu Dutt, Advocate, for
Mr. Naveen Bawa, Advocate, for respondent no.1.

ANIL KSHETARPAL, J(Oral)

An application filed by the petitioner for being brought on record as legal representative of late Smt. Shimla Devi widow of late Sh. Surinder Kumar Jain has been dismissed by the trial Court.

Lali Kumar son of late Sh. Surinder Kumar Jain filed a suit against his own family members including the mother for grant of decree of declaration that the plaintiff is owner of the properties specified in the suit. During the pendency of the suit, Smt. Shimla Devi (defendant no.6) died. The application filed by the petitioner under Order 22 of the Code of Civil Procedure, 1908 has been dismissed by the Court while observing that the name of the applicant does not appear in the Will.

The learned counsel representing the parties are ad-idem that the aforesaid observation made by the trial Court is factually incorrect.

The learned counsel representing respondent No.1 contends that the applicant is required to prove the genuineness of the Will.

For the purpose of deciding an application to bring on record legal representative under Order 22 CPC, the Court is only to see *prima facie* whether someone is entitled to be brought on record or not? The adjudication under Order 22 CPC is only for the purpose of permitting a party to either prosecute the suit or defend the suit on behalf of the deceased. While deciding such applications the Court does not finally opine on the correctness of the Will or other instruments.

Keeping in view the aforesaid facts, the order under challenge is set aside. The revision petition stands allowed. The applicant is permitted to be brought on record as legal representative of Smt. Shimla Devi for the purpose of defending the suit only.

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

April 26, 2022

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(ANIL KSHETARPAL)
JUDGE

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