

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Revision No. 8050 of 2019 (O&M)

Smt. Kanta Sharma

... Petitioner(s)

Versus

Jas Rani (Deceased) through her legal representative and Others

... Respondent(s)

AND

2. Civil Revision No. 8070 of 2019 (O&M)

Kewal Krishan

... Petitioner(s)

Versus

Jas Rani (Decesased) through her legal representative and Others

... Respondent(s)

DATE OF DECISION: 12.09.2022

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rohit Kapoor, Advocate
for the petitioner(s).

Mr. Sunil Agnihotri, Advocate
for the Legal Representative of respondent No.1.

Anil Kshetarpal, J.

1. Two identical orders, passed by the trial Court, in two different suits, are the subject matter of challenge in these two revision petitions. The learned counsel representing the parties are *ad idem* that the issue, which requires adjudication in both the revision petitions, is identical. Hence, the

facts are being taken from Civil Revision No. 8050 of 2019.

2. The petitioner before this Court is alleged to have purchased a shop in the undivided property from defendant No.6 to 11 through a registered sale deed dated 29.06.2011. A suit for separate possession by way of partition is pending. A preliminary decree for partition has already been passed on 07.05.2012. The petitioner's application under Order XXII Rule 10 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") for substitution of her name in place of defendant No.6 and 11 has been dismissed on the ground that she has purchased the share of defendant No.6 and 11 during the pendency of the suit and hence, she is not a necessary party.

3. Order XXII Rule 10 CPC enables a person to apply for substitution in a case where there is assignment, creation or devolution of rights before the final decision. Such provisions have been made in order to grant an opportunity to the assignee of rights to continue with the proceedings. Once the defendant No.6 and 11 have already transferred their interest in favour of the petitioner, there is creation of corresponding right in favour of the subsequent vendee. The rights of defendant No.6 and 11 have devolved upon the petitioner. The petitioner may not have any right to pray for setting aside the preliminary decree, however, she can be permitted to assist the Court in the preparation of the final decree. Obviously, the interest of defendant No.6 and 11 in the litigation has come to an end.

3. Keeping in view the aforesaid facts, both the revision petitions are allowed. The orders, under challenge, are set aside. The petitioners be permitted to be substituted in place of defendant No.6 and 11. The trial

decree after granting an opportunity of hearing to the petitioners. The trial Court is further directed to make sincere endeavours for expeditious conclusion of the proceedings, preferably within a period of 6 months, from today.

4. The miscellaneous application(s) pending, if any, in both the revision petition, shall stand disposed of.

(Anil Kshetarpal)
Judge

September 12, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No