

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 909 of 2018 (O&M)****Date of Decision: 30.10.2023**

Amar Singh

... Petitioner(s)

Versus

Kesho Ram (Deceased) through his Legal Representatives and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. S.K.Jain, Advocate
for the petitioner(s).Mr. Mohit Jaggi, Advocate
for the respondent No.2.**Anil Kshetarpal, J.****CR-909-2018**

1. The plaintiff No.3 assails the correctness of the order passed by the trial Court on 02.12.2017 while allowing the application filed by the defendant No.2 to bring on record the natural heirs of late Smt.Bachni (plaintiff No.5) in the suit.

2. A joint suit was filed by as many as five plaintiffs including late Smt.Bachni (plaintiff No.5). She died during the pendency of the suit. The plaintiff No.3, on the basis of a registered testamentary disposition of late Smt.Bachni, has filed an application under Order XXII Rule 3 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC"), which was allowed on 12.10.2017. The defendant No.2 has filed an application for the directions to bring on record the natural heirs of late Smt.Bachni, which was dismissed

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on 09.11.2017. Thereafter, the defendant No.2 has filed an application to bring on record the natural heirs of late Smt.Bachni, which has been allowed by the trial Court.

3. The correctness of the aforesaid order has been challenged in this revision petition.

4. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

5. While deciding an application under Order XXII CPC, the Court does not finally decide about the heirs of an individual. The application to bring on record the legal representative is permitted to be filed only to permit the parties to prosecute or defend the suit, that is the only reason when an application to bring on record legal representatives is allowed. In this case, the plaintiff No.3 has filed an application to bring him on record as the legal representative of late Smt.Bachni on the basis of the testamentary disposition. The natural heirs of late Smt.Bachni have not come forward. The decision on the application to bring on record the legal representatives does not operate as a final adjudication of the rights of the estate of late Smt.Bachni. In these circumstances, the application filed by the defendant No.2 was wholly misconceived, particularly when the natural heirs of late Smt.Bachni did not come forward.

6. This Court has made an attempt to serve the natural heirs of late Smt.Bachni. However, both of them have refused to appear.

7. Keeping in view the aforesaid facts, the present revision petition is allowed. The order dated 02.12.2017 is set aside. The trial Court is directed to decide the suit forthwith as the case is complete in all respects.

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8. In view of the order passed in the main case i.e. Civil Revision No. 909 of 2018, no further order is required to be passed in the present application. Hence, the present application is dismissed.

(Anil Kshetarpal)
Judge

October 30, 2023
“DK”

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