

2023:PHHC:145360
**130 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-2888-2019 (O&M)
Date of decision: 15.11.2023

Gurmeet Singh and another

...Petitioners

Versus

Avtar Singh (deceased) through his LRs and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Amit Arora, Advocate for the petitioners

ANIL KSHETARPAL, J (Oral)

1. As per the office report, respondent no.1(iv) and 1 (v) have not been served with a notice of this petition. Respondent no.1 Sh.Avtar Singh died and respondent no.1(i) to 1 (v) are his class I heirs. Respondent no.1(iv) and 1 (v) are the married daughters of late Sh.Avtar Singh. The notice of the petition has already been served on the widow and two sons of late Sh.Avtar Singh. Hence, the service of notice on respondent no.1(iv) and 1 (v) is dispensed with.

2. The trial court, after noticing that the suit has been filed against defendant no.1, who was already dead, refused to allow the application filed to bring on record the legal representatives of defendant no.1. Learned counsel representing the petitioners relies upon the judgment passed in **Karan Kaur (died) vs. Dalip Singh (dead) through LRs 2001 (1) PLR 514** to contend that where there

are several defendants in the suit and only one has died on the date of filing of the suit, the legal representatives can be brought on record.

3. The plaintiffs filed a suit for possession against as many as five defendants including Sh.Avtar Singh. It is the case of the plaintiffs that they did not know about the death of Sh.Avtar Singh. The moment they came to know of the aforesaid development, they immediately filed the necessary application. Therefore, the judgment passed in **Karan Kaur's case (supra)** is applicable to the facts of the present case.

4. Keeping in view the aforesaid facts, the order dated 13.02.2019 is set aside. The application filed by the plaintiffs to bring the legal representatives of respondent no.1 shall stand allowed. The trial court is directed to proceed with the suit accordingly.

5. The revision petition stands allowed. If so advised, the respondents shall have liberty to file an application for recall of this order.

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

15.11.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE