

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

Date of Decision: 17.01.2023

1) CR-2907-2019 (O&M)

Ashok Kumar (deceased) Through LR.		Petitioners
	Versus	
Ashwani Kumar Anand		Respondent

2) CR-2908-2019 (O&M)

Ashok Kumar (deceased) Through LR.		Petitioners
	Versus	
Smt. Manjit Kaur and others		Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Nikhil Sabharwal, Advocate
for the petitioner(s).

Mr. Atul Jain, Advocate
for respondent in CR-2907-2019 and
for respondent No.1 in CR-2908-2019.

ARUN MONGA, J. (ORAL)

Vide this common order, above mentioned two petitions are being disposed of, since not only the facts but the issues raised therein are also similar. For brevity, recitals are being taken from CR-2907-2019.

2. Petition herein, *inter alia*, is for setting aside order dated 02.04.2019 whereby the Executing Court has declined the application of LR's of the deceased petitioner for being impleaded on the ground that the LR's cannot execute the decree unless they obtain the succession certificate as per Section 214(1)(b) of the Indian Succession Act, 1925.

3. Having heard the rival arguments, I am of the view that the Executing Court clearly fell in error in observing that the LR's of the deceased-Landlord cannot execute a decree unless they obtain the succession certificate as per Section 214(1)(b) of the Indian Succession Act, 1925. For

ready reference, provisions of Section 214(1)(b) of the Indian Succession Act, 1925 are reproduced as under:-

“214. Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.—(1) No Court shall—

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(b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt, except on the production, by the person so claiming of—

(i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or

(ii) a certificate granted under section 31 or section 32 of the Administrator General’s Act, 1913 (3 of 1913), and having the debt mentioned therein, or

(iii) a succession certificate granted under Part X and having the debt specified therein, or

(iv) a certificate granted under the Succession Certificate Act, 1889 (7 of 1889), or

(v) a certificate granted under Bombay Regulation No. VIII of 1827, and, if granted after the first day of May, 1889, having the debt specified therein.”

4. Perusal of the aforesaid provisions shows that the same operates in respect of recovery of debts in money decrees and has no application whatsoever in the case of immovable properties. The same leaves no manner of doubt that the Executing Court misinterpreted the provisions contained in the section *ibid* and therefore the order impugned herein cannot be sustained on that ground alone.

5. Furthermore, it is borne out that the respondent/tenants are in appeal which is stated to be pending and in the said appeal as well the LR's have been impleaded as successors-in-interest of the landlord/petitioner. Therefore, the order impugned herein clearly flies in the face of the impleadment of the LR's in the appellate proceedings, which is nothing but continuation of the proceedings originally instituted by the petitioner before the Ld. Rent Controller.

6. In light of the discussion herein above, it is held that the Executing Court clearly fell in error in dismissing the application of the LR's (son, widow and daughter of the deceased landlord), who are concededly the LR's of the deceased decree-holder and their status is not disputed. Therefore, they have a right to represent the deceased landlord as his LR's.

7. Petitions are allowed. Impugned orders are set aside and the Executing Court is directed to implead the petitioners as LR's of the deceased decree-holder subject of course to the just exceptions and to proceed further in accordance with law without granting unnecessary adjournments.

8. Pending civil miscellaneous applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

January 17, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No