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AMARJIT SINGH SEKHON AND OTHERS Petitioners

VS

PARAMJIT KAUR Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present : Mr. Shvetanshu Goel, Advocate for the petitioners.

GURBIR SINGH, J.

C.M.NO.17936-CII-2023

This application is filed under Order 22 Rule 3 read with Section 151 CPC praying for impleading the legal heirs of the deceased Amarjit Singh.

In view of the averments made in the application, the same is allowed and legal heirs of the deceased-Amarjit Singh who has since died are ordered to be impleaded through him, subject to just exceptions, if any.

Amended Memo of parties is taken on record.

Registry is directed to tag the same at the appropriate place.

CM stands disposed of.

Main case

1. The present petition is filed under Article 227 of the Constitution of India for setting aside of the order dated 26.05.2022 (Annexure P-5) passed by learned Civil Judge(Junior Division) Ludhiana.

2. The brief facts as culled out from the petition are that the plaintiff/respondent filed a suit for a declaration to the effect that she is the

joint owner in joint possession to the extent of 1/4th share in the properties, as mentioned in the head note of the suit are joint Hindu Family Ancestral Coparcenary Property. The plaintiff/respondent being one of the coparcener is having right in the suit property by birth and has further prayed that a suit for separate possession of the property by way of partition be made by the metes and bounds and rendition of accounts qua the suit properties. The plaintiff/respondent has also prayed for declaration that if any document was executed by the defendant No.1/petitioner No.1 in favour of the defendant No.2 and 3/ petitioner No.2 and 3 or in favour of any other person then same is illegal, null and void. The plaintiff/respondent made a further prayer for permanent injunction restraining the petitioners from alienating the suit land in any manner.

3. Learned counsel for the petitioners submits that the case of the plaintiff/respondent is that the parties are Jat Sikhs. The petitioner No.1 is the father of the respondent whereas the petitioner No.2 and 3 are sister and brother, respectively. The petitioner No.1 has inherited huge property from his father somewhere in 1970. The petitioner No.1 sold the part of the ancestral property being Karta and from the funds received from the sale of the said land the other property was purchased. The petitioner No.1 also collected huge rents from the tenants and is liable to render the accounts. On receipt of summons, petitioners/defendants moved an application under Order 7 Rule 11 CPC for rejection of the plaint. The plaint is liable to be rejected. The respondent/plaintiff filed a reply to the application on the ground that the petitioner No.1 is in advanced stage and is suffering from various ailments. He is mentally infirm and physically weak and unable to

move independently and unable to take rational decisions. He is unable to look after the property. The defendants No.2 and 3/petitioners No.2 and 3 have kept the defendant No.1/ petitioner No.1 in their illegal custody. The plaintiff/respondent has also filed an application under Order 32 Rule 3 read with Rule 15 and Section 151 CPC for appointment of court guardian. The learned trial Court, Ludhiana vide order dated 28.03.2022 has dismissed the application.

4. I have heard the submissions made by the learned counsel for the petitioners.

5. The suit is filed by daughter against his father that she is coparcener and is having share in the suit property inter-alia for separate possession by way of partition. Since plaintiff/respondent is a daughter and is now the co-parcener in the ancestral property so suit filed by the co-parcener for partition of the co-parcenary property is maintainable. A plaint can be rejected in toto and cannot be rejected partly in the application under Order 7 Rule 11 CPC.

6. Learned Court below has rightly held that part of the plaint cannot be rejected. Thus, this petition is without any merit and the same is accordingly dismissed.

7. Petition stands dismissed.

(GURBIR SINGH)
JUDGE

07.11.2023
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>