

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

CR-6168-2019 (O&M)

Date of decision: 01.05.2023

Manit Malhotra

...Petitioner

VS.

Avtar Singh (deceased) through LR's and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Pankaj Bains, Advocate,
For Mr. Bhavesh Chaudhary, Advocate,
For the petitioner.

Mr. Vinay Puri, Advocate,
For LR's of respondent No.1.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 10.12.2018 (Annexure P-6) passed by learned Civil Judge (Senior Division), Jalandhar vide which application for bringing on record legal representatives of deceased respondent no.1/decree holder filed by their counsel, was allowed.

2. Learned counsel for petitioner submits that respondent No.1 filed an execution application arising out of the judgment and decree dated 03.04.2017 whereby petitioner/judgment debtor No.3 was directed by learned trial Court to deliver the possession of property and to pay mesne profits to respondent No.1/decree holder @ Rs.20,000/- per month for illegal and unauthorized use of property of respondent No.1. Petitioner filed objections on the very first date and since then case was adjourned for filing reply to the said objections by respondent No.1. During the execution

proceedings, respondent No.1 died on 06.02.2018 and the application for bringing on record the legal representatives of deceased respondent No.1 was filed and the same was allowed by learned trial Court vide impugned order dated 10.12.2018 (Annexure P-6).

3. Learned counsel for petitioner contends that the application was not accompanied by 'power of attorney' on behalf of legal representatives nor the same was signed by the legal representatives themselves. He further contends that no single opportunity was given to petitioner for filing reply to the said application.

4. Learned counsel for LR's of respondent No.1 causes appearance and strenuously opposes the instant revision petition.

5. I have heard learned counsel for parties and gone through the case file.

6. Substance of revision petition herein is that learned Trial Court without ascertaining genuineness of the application/or learned counsel representing them without there being any power of attorney in his favour, has allowed the same. Furthermore, learned counsel points out that even an opportunity to file reply to the application was also not granted.

7. Be that as it may, in course of hearing, on a Court query, learned counsel for LR's of respondent No.1 states that he has no objection if the application filed by legal representatives is decided afresh and they shall execute 'power of attorney' in favour of learned counsel, who was representing them and petitioner is at liberty to file a reply *qua* the same.

8. In the premise, revision petition is disposed of by setting aside the impugned order, of course, with liberty to respondent(s) to file affidavit/s in support of the application and 'power of attorney' executed in favour of

their learned counsel. Learned Trial Court to pass fresh orders on the same,
in accordance with law.

- 9. Disposed of, accordingly.
- 10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

01.05.2023
Vandana

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