

118.

2023:PHHC:142276

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

CR-5718-2023

Date of decision: 07.11.2023

JASKIRAT SINGH THROUGH HIS MOTHER

.... Petitioner

Versus

BHUPINDER SINGH (SINCE DECEASED) THROUGH LRS AND
OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Mohit Singla, Advocate, for the petitioner.

GURBIR SINGH, J.

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 08.09.2023 (Annexure-4) passed by learned Civil Judge (Junior Division), Khamanon, District Fatehgarh Sahib, whereby the application moved by respondent-defendant No.4-Charanjit Kaur for bringing on record the legal representatives of deceased respondent No.1-Bhupinder Singh, has been allowed.

2. In brief, the petitioner-plaintiff filed a suit for declaration to the effect that he and respondent No.4 are owners in possession of land, as mentioned in the heading of the plaint, on the basis of registered Will executed by Nirmal Singh (deceased) and mutation No.7666 of inheritance of Nirmal Singh in favour of respondents-defendants is null and void; further consequential relief of joint possession and suit for permanent injunction.

However, during the pendency of suit, Bhupinder Singh-defendant No.1 died on 22.05.2021. Respondent-defendant No.4 moved an application dated 29.07.2022 to bring on record his legal representatives i.e. after a period of about one year and two months. It is submitted that the relations between Harpreet Kaur, mother of the plaintiff and first wife of Bhupinder Singh, were not cordial with Bhupinder Singh, who was drug addict and used to beat her. She also filed a petition for divorce, which was contested by Bhupinder Singh by filing written statement, but when the petition was fixed for payment of maintenance pendent-lite, he intentionally did not turn up and ultimately, was proceeded against ex-parte on 11.09.2015 and vide order dated 07.12.2015, her petition was accepted. She also filed a petition under Section 125 Cr.P.C. for grant of maintenance, which was also allowed granting amount of maintenance and litigation expenses, but he did not pay any amount.

3. Learned counsel for the petitioner has argued that the application allowing the impleadment of legal representative of deceased-Bhupinder Singh is time barred as it was filed after a lapse of about one year and two months from the date of death of Bhupinder Singh. The legal heirs of Bhupinder Singh i.e. plaintiff and defendant No.4 are already on record. Harpreet Kaur did not file any proof of her marriage with Bhupinder Singh. The suit is based on the basis of Will executed by Nirmal Singh in favour of plaintiff and defendant No.4. So, the learned court below committed error in allowing the application.

4. I have heard the submission of learned counsel for the petitioner.

5. There is no limitation for bringing on record the LR's of deceased. In case *Ram Phal and others Versus Harbans Lal and others, 2014(69) R.C.R. (Civil) 798*, it has been held by this Court that there is no limitation for bringing on record the legal representatives of the deceased and the suit would not abate. So, the application cannot be considered as barred by limitation. The application was only allowed for the purpose of decision of the suit, so that Bhupinder Singh does not remain unrepresented. His legal representatives have been brought on record only for the purpose of this suit. The trial Court has rightly held so and this Court also does not find any ground for interference in the lawful order passed by the trial Court. The revision petition is, accordingly, dismissed.

(GURBIR SINGH)
JUDGE

November 7, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No