

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

CR-6145-2022(O&M)

Date of decision:-31.1.2023

Kuldip Singh and others

...Petitioners

Versus

Gurdial Singh and another

...Respondents

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Mr.Vivek Salathia, Advocate  
for the petitioners.

Mr.Prateek Sodhi, Advocate  
for the respondents.

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**H.S. MADAAN, J.**

1. Briefly stated, facts of the case are that plaintiff Gurdial Singh son of Jhanda Singh along with his grandson Jaspreet Singh son of late Sh.Satwinder Singh, both residents of House No.518, East Mohan Nagar, Chamang Road, Amritsar and also at House No.45, Ajit Nagar, Sultanwind Road, Amritsar had brought a suit against defendants Kuldip Singh son of Gurdial Singh, Sarabjit Singh and Jaspal Singh sons of Kuldip Singh, in that way grandsons of Gurdial Singh, all residents of House No.46, Ajit Nagar, Sultanwind Road, Tehsil and District Amritsar seeking a decree for permanent injunction restraining the defendants from

interfering into peaceful and lawful possession of the plaintiffs over the suit property situated in Sulwanwind Urban, Abadi East Mohan Nagar, Tehsil and District Amritsar.

2. On getting notice, the defendants had appeared and filed a written statement contesting the suit. During the course of proceedings plaintiff Gurdial Singh had died. Plaintiff No.2 Jaspreet Singh had filed an application for being brought on record as legal heir of plaintiff No.1 stating that Gurdial Singh, who had expired on 27.7.2021 had executed a Will dated 5.2.2018 in his favour, therefore, he be brought on record as legal heir of plaintiff No.1 Gurdial Singh.

3. The application was opposed on behalf of defendants contending that it was not maintainable considering that the nature of suit filed for grant of permanent injunction and no other person even the other plaintiff can acquire the cause of action of other plaintiff after his death. According to the defendants, with the death of Gurdial Singh, the cause of action does not survive and only remedy available to the plaintiff No.2 is to file a fresh suit on fresh cause of action. The will claimed by Jaspreet Singh is labelled as a forged and fabricated document. The defendants prayed for dismissal of the application.

4. The trial Court of Civil Judge(Jr.Divn.), Amritsar vide the impugned order dated 2.12.2022 accepted the application. For ready reference, the operative part of the order is being reproduced as under:

*Arguments heard. No doubt that the defendants have alleged that the Will which has been made in favour of Jaspreet Singh is forged and fabricated, it is the duty of the court to bring legal heirs of parties to the suit on record, so that any suit may not get decided, either in favour or against a*

*dead person, therefore keeping in view the provisions of order 22 rule 3 CPC and for the purpose of present suit, the application of the plaintiff/applicant under order 22 rule 3 stands allowed. Now, to come up on 31.01.2023 for filing of amended title.*

5. This order left the defendants aggrieved and they have approached this Court by way of filing the present revision petition. The respondents have also appeared through counsel.

6. I have heard learned counsel for the parties besides going through the record.

7. I find that the trial Court was justified in impleading Jaspreet Singh as legal representative of plaintiff Gurdial Singh on the basis of will set up by Jaspreet Singh in his favour. The limited purpose of bringing on record legal representative of a party to the suit is to continue with the proceedings and substitutive rights of the parties with regard to inheritance of deceased Gurdial Singh are not going to be decided in this litigation. The case set up by the defendants that with death of Gurdial Singh, no cause of action survives to remaining plaintiff Jaspreet Singh and suit has become infructuous is without any merit. Therefore, the trial Court was justified in impleading Jaspreet Singh as legal representative of his deceased grandfather Gurdial Singh, who was his co-plaintiff invoking provisions of Order 22 Rule 3 CPC. Since right to sue survives to Jaspreet Singh, the suit has not become infructuous. The order passed in that regard is quite detailed and well reasoned and it does not suffer from any illegality or infirmity. No reason is there to interfere with it by exercising revisional jurisdiction.

8. Finding no merit in the revision petition, the same stands

dismissed.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

31.1.2023  
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(H.S.MADAAN)  
JUDGE

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**