

117.

2023:PHHC:160318

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

CR-7520-2023 (O&M)

Date of decision: 14.12.2023

KASHMIR SINGH

.... Petitioner

Versus

COMMANDANT DIG- SHQ AND ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Ms. Riffi Birla, Advocate, for the petitioner.

GURBIR SINGH, J. (Oral)

1. Prayer in this civil revision petition filed under Article 227 of the Constitution of India is for setting aside the orders dated 07.11.2023 passed by learned Additional Civil Judge (Senior Division), Fazilka whereby ad-interim injunction has been declined to the petitioner in an application filed under Order 39 Rules 1 and 2 read with Section 151 CPC and notice has been issued to respondents. The petitioner has also challenged order dated 16.11.2023 whereby the appeal preferred against order dated 07.11.2023 has also been dismissed.

2. Learned counsel for the petitioner submits that the petitioner-plaintiff is the father of deceased-Sukhchain Singh, and respondent No.2-Ujala Rani is not the wife of the son of the petitioner who died by committing suicide and an FIR was also registered against respondent No.2

under Section 306 IPC. Son of the petitioner was working with respondent No.1-department. The petitioner claims the benefits but the same are not being given to him on the ground that the son of the petitioner has nominated respondent No.2 as his wife.

3. It is further submitted that at this stage, the petitioner would be satisfied that if till the disposal of application under Order 39 Rule 1 and 2 CPC, the benefits are not released to respondent No.2 by respondent No.1 and the said application be decided in accordance with law.

4. Notice of motion.

5. At this stage, Mr. S.K. Sharma, Senior Panel Counsel, has caused appearance on behalf of respondent No.1. He submits that the petitioner is required to get the succession certificate.

6. Keeping in view the fact that application under Order 39 Rule 1 and 2 CPC is yet to be decided and notice has been issued to the respondents-defendants and it will take some time for disposal, so the present revision petition is disposed of with a direction to respondent No.1 not to release death-cum-retiral benefits to any of the parties till the disposal of application under Order 39 Rule 1 and 2 CPC, which shall be disposed of expeditiously but not later than one month from the completion of service of defendants of suit.

(GURBIR SINGH)
JUDGE

December 14, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No