

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**122****CR No.524 of 2024 (O&M)
Date of Decision : 31.01.2024**

Mamta Nagpal

....Petitioner

VERSUS

Ram Dulari (deceased) through her LRs and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashish Gupta, Advocate for
Ms. Prerna Malhotra, Advocate (Legal Aid Counsel)
for the petitioner.

ALKA SARIN, J. (Oral)

1. The challenge in the present petition is to the order dated 28.09.2023 passed by Additional Civil Judge (Senior Division), Ambala whereby application filed by the petitioner herein for dismissal of the Civil Suit No.6702 of 2013 filed by respondent – Ram Dulari – as not being maintainable was dismissed as also to the order dated 22.11.2023 passed by Additional Civil Judge (Senior Division), Ambala whereby the application filed by the petitioner herein for review of the order dated 28.09.2023 has been dismissed.

2. The dispute in the present case is *qua* the estate of Naveen Nagpal and both the petitioner herein being wife and respondent No.1 – Ram Dulari – being the mother claimed to be the Class I heir of the estate of Naveen Nagpal. Both have filed separate suits. Civil Suit No.7251 of 2013 titled 'Mamta Nagpal vs. Ram Dulari' was filed by the petitioner herein and

Civil Suit No.6702 of 2013 titled “Ram Dulari vs. Mamta Nagpal and Others’ was filed by respondent No.1 – Ram Dulari.

3. Learned counsel for the petitioner would contend that the mother and brother of the deceased husband of the petitioner herein have taken all the assets of the deceased and misappropriated the funds thereby depriving the petitioner of her right.

4. Heard.

5. The petitioner herein filed an application for dismissal of Civil Suit No.6702 of 2013 filed by respondent No.1 – Ram Dulari – or for stay of the proceedings of the suit till the funds are deposited by Rajeev Nagpal, the brother of Naveen Nagpal. The Trial Court vide order dated 28.09.2023 dismissed the application being devoid of any merits and held that at this stage, without their being any evidence on the record in both the suits, it could not be held that Civil Suit No.6702 of 2013 was not maintainable. Subsequently, an application was filed by the petitioner herein for review of the order dated 28.09.2023 which application was also dismissed vide the impugned order dated 22.11.2023. Learned counsel for the petitioner has not been able to convince this Court or to show to this Court any material to form an opinion that the suit filed by respondent No.1 – Ram Dulari – being the mother and Class I heir of Naveen Nagpal could be dismissed at this stage as not maintainable. The averments in the application for dismissal of the Civil Suit No.6702 of 2013 are that Rajeev Nagpal, who is a party in the Civil Suit No.7251 of 2013 filed by the petitioner herein and against whom an application for deposit of the amount illegally withdrawn and misappropriated by him has been filed, has neither deposited the amount nor replied to the said application and hence Civil Suit No.6702 of 2013 be

dismissed. The application itself is incomprehensible. The reason stated in the application for dismissal of the civil suit is that a person, who is not a party to the said suit, has not deposited the money and hence the civil suit filed by respondent No.1 – Ram Dulari – be dismissed as not maintainable. There is not even a whisper as to on what ground the civil suit filed by respondent No.1 – Ram Dulari – being Civil Suit No.6702 of 2013 is not maintainable. The application for dismissal of the Civil Suit No.6702 of 2013 is nothing but an abuse of law and complete wastage of time of the Court.

6. In view of the above, the present petition is dismissed being devoid of any merits. This Court refrains from imposing costs as the present petition has been filed through Legal Aid.

7. Dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

31.01.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO