



CR-1260-2024 (O&M)

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

Sr. No.107**CR-1260-2024 (O&M)****Date of Decision: 31.05.2024****GURMAIL SINGH NOW DECEASED THR LRPetitioner****Versus****SURINDER KAUR AND ANOTHERRespondents****CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Ms. Taanvi Dhull, Advocate, for
Mr. Namish Sodhi, Advocate for the petitioner.

Mr. Tejinder Pal Singh, Advocate,
for respondent No.1 (sole contesting respondent).

Process of service qua respondent No.2 dispensed with
vide order dated 30.05.2024.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 11.12.2023 (Annexure P-5), passed by learned Trial Court, whereby an application dated 20.10.2023 (Annexure P-4), for filing the written statement, was dismissed, even though, the petitioner was impleaded as legal representative of the deceased, Gurmail Singh, defendant No.1.

Learned counsel for the parties heard.

As culled out from the paperbook, Surinder Kaur had filed a suit against Gurmail Singh and Jaswinder Sahota, thereby seeking separate possession by means of partition by metes and bounds, as detailed in the head note of the plaint, copy whereof is Annexure P-1.

In pursuance of the notice issued by learned Trial Court, defendant No.1-Gurmail Singh (since deceased), had made appearance



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through counsel on 05.11.2022 and the case was adjourned further for 09.12.2022, for filing of written statement. However, on that day also, the written statement was not filed and the case adjourned further for multiple times i.e. for 04.02.2023, 21.03.2023, 06.05.2023, 31.05.2023 and ultimately for 14.07.2023, when the defence of defendant No.1- Gurmail Singh, was struck off.

However, the present petitioner, who is the son of the deceased Gurmail Singh-defendant No.1, had made appearance before learned Trial Court and filed an application for being impleaded as legal representative only on 20.10.2023.

It is submitted by learned counsel for the petitioner that it was only on account of death of his father, that Iqbal Singh never came to know about the pending suit immediately. As soon as, he came to know about the same, he had filed an application for being impleaded as legal representative. Also, it is submitted by learned counsel for the petitioner that even though, the petitioner was impleaded as legal representative, vide the impugned order, but however, his application was dismissed qua the permission to file the written statement. Anyhow, it is submitted that no reason, as such, has been assigned for dismissal of the application qua permission to file the written statement.

From the perusal of the zimini orders, as observed aforesaid, it is evident that the death of the father of the petitioner, as now disclosed has taken place on 05.01.2023, that was prior to the short date, given for filing of written statement. Probably, the counsel representing



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Gurmail Singh, before learned Trial Court, never came to know about the death of defendant No.1 and consequently, the case remained pending, for the purpose of filing of written statement. It was under such circumstances, the defence of the petitioner was struck off by the Court on 14.07.2023, vide the impugned order.

However, may it be so, it is the pleaded case of Iqbal Singh that he never came to know about the pending suit, as a result whereof, he could not apprise the Court of the death of his father and in these circumstances, he had filed the application on 20.10.2023.

In view of the aforesaid, though, learned Trial Court had allowed Iqbal Singh, to be impleaded as legal representative of Gurmail Singh-defendant No.1, but however, no reason, as such, has been assigned for declining the permission to file the written statement.

Keeping in view the aforesaid fact situation and in the interest of justice, the instant revision petition is hereby accepted and only one opportunity is given to the petitioner to file written statement before learned Trial Court, on 18.07.2024, the date already fixed before learned Trial Court.

In view of the aforesaid terms, the instant revision petition stands disposed of.

31.05.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No