

2024:PHHC:096854



129

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

CR-4169-2024 (O&M)
Decided on:-30.07.2024

Hardev Singh and another (thr. GPA)

....Petitioners.

vs.

General Public

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. M.K. Dogra, Advocate and
Mr. Ankush Sharma, Advocate,
for the petitioners.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition filed under Article 227 of the Constitution of India, challenge has been laid to an order dated 02.02.2019 passed by the Additional Civil Judge (Senior Division) Baba Bakala Sahib, whereby an application filed under Sections 151/152 of the Code of Civil Procedure, seeking correction/amendment of order dated 07.12.2012, passed on an application under Section 372 of the Indian Succession Act, 1925 (for short, "1925 Act"), filed at the instance of petitioner, stands dismissed.

2. In the present case, Hardev Singh and Jagdev Singh, both sons of Kartar Singh, moved petition under Section 372 of the 1925 Act, seeking grant of succession certificate as regards the movable assets left by their

maternal grandmother, namely, Smt. Swarn Kaur, who unfortunately died on

13.04.2005. In the petition, it was pleaded that their mother namely, Smt.Palwinderjit Kaur had already died on 27.07.2000. During its pendency, one of the brothers namely, Jagdev Singh, unfortunately expired and the other brother namely, Hardev Singh (petitioner No.1) was allowed to be impleaded as his legal representatives vide order dated 19.12.2011. Petition under Section 372 of the 1925 Act, was allowed by the trial Court vide its decision dated 07.12.2012. Based thereupon, succession certificate was issued in favour of Jagdev Singh and Hardev Singh by the Court of Additional Civil Judge (Senior Division), Baba Bakala Sahib, vide order 03.08.2018, regarding the following movables:-

Name of banker/institution	Debts/security amount	Description
Post office Khilchian	Rs.3,06,090/- including interest on Rs.1,50,000/- basic amount	5½ years kisan Vikas Pattar serial No.37CC927275 to 37CC927289 total 15 in numbers of Rs.10,000/- each. Agent registration No.1864 and 1865 dated 10.05.1999

3. As the succession certificate was issued in the name of Jagdev Singh and Hardev Singh, though, Jagdev Singh was no more and Hardev Singh stood impleaded as LRs of Jagdev Singh (since deceased) vide order dated 19.12.2011, petitioner No.1 moved an application before the trial Court seeking correction/amendment of order dated 07.12.2012 as well as the succession certificate dated 03.08.2018. The prayer made in this regard was declined vide order dated 02.02.2019.
4. Aggrieved thereof, the petitioner No.1 filed an appeal, the same was, however, withdrawn being not maintainable, with the permission to file revision petition before this Court. Hence, the present revision petition.

5. Impugning the order dated 02.02.2019, learned counsel for the

petitioner submits that once petitioner No.1 was already allowed to be impleaded as legal representatives of his deceased-brother (Jagdev Singh) and no one else including the father of deceased-Jagdev Singh came forward to assert his right or claim towards the movable assets left by his maternal grandmother, the necessary correction/amendment under Sections 151/152 CPC was required to be made in the order dated 07.12.2012 as well as the succession certificate issued on 03.08.2018.

6. I have heard learned counsel for the petitioners and gone through the paper book.

7. A perusal of record shows that two brothers, namely, Jagdev Singh and Hardev Singh filed petition under Section 372 of the 1925 Act, seeking succession qua the movable assets left by their maternal grandmother- Smt.Swarn Kaur. During pendency of the petition, one of the brothers, namely, Jagdev Singh unfortunately expired and the other brother, namely, Hardev Singh-petitioner No.1 was impleaded as his legal representative. Though, as per Schedule to Section 6 of the 1925 Act, the father of Jagdev Singh, namely, Kartar Singh also became class II heirs but he was not impleaded as his legal representative, yet, considering the fact that no one else has come forward to contest the estate of Jagdev Singh, whereas, the present petition has even been filed by Kartar Singh as the general power of attorney of Hardev Singh, in such circumstances, there being no clash of interest between petitioner No.1 and his father-Kartar Singh; rather than sending them again to the Court below for seeking fresh succession certificate in terms of Section 372 of 1925 Act as regards the movable assets left by deceased-Swarn Kaur, purely, in the interest of

justice, the application filed at the instance of Hardev Singh, is allowed.

8. The Court below is directed to make out necessary corrections in the order dated 07.12.2012 and the succession certificate be issued under Section 372 of the 1925 Act to Hardev Singh, whose interest in any way is being watched by his father-Kartar Singh, being his power of attorney. At best, the trial Court may call for an affidavit-cum-no objection from the father-Kartar Singh, in favour of Hardev Singh.

9. This order shall not be treated as precedent being passed in exceptional circumstances in order to do substantial justice to the petitioners, who are before the Courts; seeking succession certificate for the past almost twenty years.

10. Pending application(s), if any, shall also stand disposed of.

30.07.2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No