



CR-6714-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-6714-2024

Date of decision : 28.11.2024

Gurmej Singh (since deceased) through his LRs and another

... Petitioners

Versus

Nirmal Kaur Dhaliwal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Chanakya Batta, Advocate
for the petitioners.

Mr.Maninder S. Saini, Advocate
for the respondents.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 21.05.2024 to the extent that the petitioners have been allowed to join the proceedings only from the stage where the case was fixed at the time of filing the application for impleading LRs, instead of allowing them to file the written statement on behalf of defendant no.1.

2. On 19.11.2024, this Court was pleased to pass the following order:-

“Inter alia contends that in the present case, defendant No.1 had died on 17.08.2009 i.e., prior to the filing of the suit which was filed on 14.09.2016. It is submitted that the suit was thus, filed against a dead person. It is further submitted that it



is only in November, 2022, when the applicants/petitioners came to India that they came to know that the present suit had been filed and defendant Nos.1 and 2 had been proceeded against ex parte. It is submitted that immediately thereafter, the first step taken by the petitioners was to get the ex parte order against defendant No.2 set aside and subsequently, had filed the present application for being impleaded as LR's of defendant No.1 and to contest the suit. It is further submitted that since defendant No.1 had died prior to the filing of the suit thus, apparently, no service was effected on defendant No.1 in accordance with law. It was the duty of the plaintiff to implead the legal representative of defendant No.1 and at any rate, once the petitioners had sought impleadment, the petitioners should have been permitted to file a written statement to raise the plea which defendant No.1 could have raised, as the petitioners are the legal representatives of defendant No.1 and thus, the impugned order to the extent that the petitioners have been permitted to join the proceedings only from the stage of the plaintiff's evidence, is illegal.

Notice of motion to respondent Nos.1 and 2 only for 28.11.2024.

Liberty is granted to the petitioners to serve respondent Nos.1 and 2 through dasti process as well as through their counsel in the trial Court.

To be taken in the urgent list.

Notice regarding stay.

19.11.2024"

3. During the course of arguments, a consensus has been arrived at between the parties. With the consent of both counsel for the parties, the present petition is disposed of and the impugned order dated 21.05.2024 is

modified in the following terms:-



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- i) The petitioner, who has been impleaded as legal representative of defendant no.1-Gurmej Singh, would be permitted to file a written statement within a period of 10 days from today. In the said written statement, no independent plea would be raised by the legal representative and the pleas, which were available to defendant no.1, would be raised in the same.
 - ii) After the written statement has been filed, respondent no.1-plaintiff would be granted an opportunity to file replication.
 - iii) After the pleadings are completed, fresh / additional issues would be framed by the trial Court and the petitioners would be granted opportunity to cross-examine all the plaintiff's witnesses, who have been examined or are yet to be examined by the plaintiff and thereafter, the defendants including the present petitioners would be granted opportunity to lead defence evidence.
4. It is made clear that in case the petitioners do not file the written statement within the aforesaid period of 10 days, then the present petition would be deemed to have been dismissed.

(VIKAS BAHL)
JUDGE

November 28, 2024.
Davinder Kumar

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