



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

SAO NO.19 of 2019(O&amp;M)

Date of Order:27.03.2025

Shree Chand (Deceased) and others

.Appellants

Versus

Girraj and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kulbhushan Sharma, Advocate  
for the appellants.

Mr. Mohan Sheoran, Advocate, for  
Mr. Jangveer Singh Hooda, Advocate  
for the respondents.

ANIL KSHETARPAL, JUDGE (Oral)

1. **BRIEF FACTS:-**

1.1. On 18.02.2025, the following order was passed:-

*“A perusal of the file prime facie shows that the trial court has erred in dismissing the appellants application to bring on record legal representative of Shree Chand, the plaintiff, who died during the pendency of the suit vide order dated 01.02.2014.*

*Keeping in view the facts of the case, this court proposes to exercise power of superintendence under Article 227 of the Constitution of India, even if the order dated 01.02.2014 has not been assailed in this revision petition.*

*Learned counsel for respondents prays for a short accommodation to assist the court.*

*List on 21.02.2025, in the urgent list.”*

1.2. Shree Chand son of Sh. Khushi Ram filed a suit for grant of decree of declaration on the ground that Smt. Shukantla has died issueless



without leaving any Class-I heirs, on 24.09.2007. The plaintiff is her husband's brother. It was claimed by the plaintiff that the defendant claims to be the owner of the property on the basis of false and forged will dated 19.09.2007.

1.3. During the pendency of the suit, Shree Chand died. Sh. Prabhu Dayal, Sh. Buddhi and LRs of Sh. Ganga Dhan filed application to bring them on record being heirs of Shree Chand (nephews). Before the application was decided, they sought amendment of the application on the ground that Shree Chand had left behind a registered Will dated 25.05.2000 in their favour which was dismissed by the trial Court on 18.11.2013. Subsequently, the application to bring them on record as legal representatives was also dismissed on 01.04.2014 and consequently the suit was also dismissed as the right to sue did not survive on 15.02.2014. They filed the first appeal which has also been dismissed on the ground that the order dated 01.02.2014, has not been challenged. It is in this background, this court requested the learned counsel representing the respondent to assist the court.

## 2. ANALYSIS AND DISCUSSION:-

2.1. From the narration of facts as stated above, it is evident that the trial court has taken a very narrow view of the matter. The application filed by Sh. Prabhu Dayal, Sh. Buddhi and heirs of Sh. Gagan Dhan, for seeking permission to bring them on record as legal representatives was wrongly dismissed by the trial court. The aforesaid mistake was compounded by another order dismissing the application to bring them on record as legal representatives who had claimed that they are nephews. The court was



required to adjudicate the application on merits.

2.2. From the reading of order dated 01.02.2014, it is evident that the court dismissed the application on the ground that Shree Chand has died issueless and the applicants are not the brothers of deceased-plaintiff. Even if the appellants were not Class-I heirs, they are children of brother's son. Hence, they would fall under Class-II heirs.

2.3. Consequently, the orders dated 18.11.2013, 01.02.2014, 15.02.2014 and 12.01.2016, are set aside.

2.4. The application for permission to amend the application for legal representatives shall stand allowed. The trial court will proceed to decide the application afresh.

3. **DECISION:-**

3.1. Disposed of accordingly.

3.2. All the pending miscellaneous applications, if any, are also disposed of.

**(ANIL KSHETARPAL)**  
**JUDGE**

**March 27, 2025**  
**nt**

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|----------------------------------|----------|---------------|
| <b>Whether speaking/reasoned</b> | <b>:</b> | <b>Yes/No</b> |
| <b>Whether reportable</b>        | <b>:</b> | <b>Yes/No</b> |