



In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 4182 of 2023

Date of Decision: 22.04.2025

Bal Krishan (Since Deceased) through his Legal Representative and Another

... Petitioner(s)

Versus

Ram Lubhai and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. S.K.Chaudhary, Advocate
for the petitioner(s).

Mr. R.D.Bawa, Mr. Samuel Gill, Mr.Randhir Bawa
and Mr. Rishabh Rana, Advocates, for respondent No.2.

Anil Kshetarpal, J.

1. The petitioners before this Court are the plaintiffs. They have filed a suit for separate possession against Ram Lubhai, Vinod Kumari and Shiv Cut Piece, Chakri Bazaar, Batala. In fact, the plaintiffs are the children of Sudesh Kumari, who was the sister of Ram Lubhai and Vinod Kumari. During the pendency of the suit, Ram Lubhai died. Savita Kumrah, claiming to be the adopted daughter of Ram Lubhai, filed an application for bringing herself on record as her legal representative, which was allowed. Subsequently, the plaintiffs filed an application before the Trial Court for framing an issue on the question of legal representative and permitting them to lead evidence which was dismissed.

2. The learned counsel representing the petitioners, while referring to Order XXII Rule 5 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC"), submits that this issue is required to be decided by the Trial Court.

3. It is evident that the plaintiffs have filed a suit against Ram Lubhai. They cannot be the plaintiffs as well as the defendants. They are

already party to the suit. Disposal of the application to bring on record the legal representatives is only to maintain continuity in the suit and such decision does not operate as *res judicata*. While deciding the application to bring on record the legal representative, the Court does not decide inheritance of the property. The legal representatives are brought on record only to represent the plaintiff or the defendant who has died during the pendency of the suit. They are brought on record as legal representatives for prosecuting or defending the case.

4. As is evident, the plaintiffs now want that they should also be impleaded as the legal representatives of Ram Lubhai. They themselves have filed the suit. They cannot be the plaintiffs as well as the defendants. Moreover, a Full Bench of this Court in *Mohinder Kaur and Another v. Piara Singh and Others AIR 1981 (Punjab and Haryana) 130* held that the decision under Order XXII Rule 5 CPC does not operate as *res judicata* in the subsequent proceedings.

5. Keeping in view the aforesaid facts, the present revision petition is disposed of. The petitioners, if so advised, may request the Trial Court to frame an issue on this aspect which shall be decided along with the suit.

(Anil Kshetarpal)
Judge

April 22, 2025
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No