

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****206****CR-5650-2023 (O&M)****Date of decision: 21.01.2025****Amrik Singh @ Amrik Singh Mangat
through Special Power of Attorney****...Petitioner(s)****Vs.****Balwinder Kaur and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Sunny K. Singla, Advocate for the petitioner.****Mr. S.S.Swaich, Advocate with
Ms. Ishani Goyal and Ms. Deepa Negi, Advocates
for respondents No. 2 and 3.***********NIDHI GUPTA, J.**

Challenge in the present revision petition filed under Article 227 of the Constitution of India is to the order dated 06.09.2023 (wrongly mentioned as 06.09.2022) passed by learned Civil Judge, Junior Division, Amloh (Annexure P-6), whereby the application dated 17.05.2013 filed by the petitioner under Order 1 Rule 10 CPC (Annexure P-4), has been dismissed.

2. The brief facts of the case are that the plaintiffs/respondents No.1 to 3 herein have filed a civil suit dated 20.11.2012 (Annexure P-1) for declaration to the effect that the plaintiffs being daughters of late Inderjit Singh @ Hardev Singh son of Narain Singh are joint owners having joint holding rights equal to the



defendants/respondents No. 4 to 6 herein, in the suit land. Defendants appeared in the said civil suit and filed written statement dated 10.04.2013 (Annexure P-2). Replication dated 08.01.2014 (Annexure P-3) was filed thereto by the plaintiffs.

3. Learned counsel for the petitioner submits that the plaintiffs/respondents No. 1 to 3 had filed the present suit by concealing the material facts and have deliberately not impleaded the applicant/petitioner in the suit, who also had direct interest in the suit land being co-owner and co-sharer as one of the son of the deceased Inderjit Singh. Accordingly, the petitioner had filed the present application dated 17.05.2013 (Annexure P-4) seeking impleadment in the above suit. Reply dated 20.08.2013 (Annexure P-5) was duly filed by the plaintiffs opposing the prayer of the petitioner. However, vide the impugned order dated 06.09.2023, the application of the petitioner has been dismissed on spurious grounds.

4. Learned counsel for the petitioner submits that the petitioner is a necessary party to the suit primarily for the reason that he has clear interest in the suit property. The petitioner's interest in the suit property devolves, firstly, as the mother of the petitioner, namely, Harbans Kaur wife of late Inderjit Singh (who is also the mother of the plaintiffs and the defendants), had transferred the part of the suit land in favour of the petitioner vide Registered Transfer Deed dated 27.07.2011 (Annexure P-7). Learned counsel contends that the present civil suit was filed on 20.11.2012. Therefore, the petitioner had interest in the suit



property prior to filing of the suit vide the above said registered Transfer Deed dated 27.07.2011 (Annexure P-7). Accordingly, the application of the petitioner could not have been dismissed.

5. Learned counsel next contends that the petitioner's interest in the suit property also accrues from the fact that the petitioner is the natural born son of the late Inderjit Singh who is father of the plaintiffs and the defendants. In this regard, learned counsel refers to the documents, which are the copy of the passport of the petitioner; copy of the Permanent Account Number of the petitioner; copy of the ex-serviceman identity card of the petitioner; copy of the driving licence of the petitioner; and the higher secondary part 1 examination certificate of the petitioner (Annexure P-8 collectively) in all of which Inderjit Singh is mentioned as father of the petitioner. It is stated that accordingly, being son of Inderjit Singh and brother of the plaintiffs/and defendants No. 2 and 3, the petitioner was a necessary party to any suit in respect of property of Inderjit Singh. It is contended that accordingly, opportunity should have been given by the learned trial Court to the petitioner to prove that he is the son of Inderjit Singh. Thus, the learned trial Court had passed the impugned order on the basis of wrong facts which is totally illegal and has resulted in grave miscarriage to the petitioner.

6. From a perusal of the above said facts and documents, it is crystal clear that Inderjit Singh is the father of the petitioner; and admittedly, the present dispute is relating the inheritance of the



deceased Inderjit Singh. The petitioner has prima facie proved on record that the petitioner was also the son of the deceased Inderjit Singh. However, the learned trial Court had passed the impugned order without giving any opportunity to the petitioner to lead evidence. It is argued that it was necessary to give such opportunity to the petitioner as all the above aspects are disputed questions of facts which have to be proven by leading evidence especially since the petitioner has prima facie demonstrated that the petitioner was the son of Inderjit Singh.

7. Per contra, learned counsel for the respondents/plaintiffs vehemently opposes the prayer made on behalf of the petitioner and submits that the plaintiff is dominus litis/master of his suit, and cannot be dictated to.

8. It is further contended that the petitioner is not the son of Inderjit Singh as claimed by him. It is contended that the petitioner is the son of Harbans Kaur from her previous marriage with one Hazara Singh. This fact has been admitted by the petitioner himself and is evident from the record. In this regard, learned counsel refers to the documents (Annexures R-2/1 to R-2/4) which amply demonstrate that the petitioner is not the son of Inderjit Singh.

9. It is next contended by learned counsel for the respondents/plaintiffs that the present application seeking impleadment has been moved by the petitioner at the stage of arguments of civil suit. It is submitted that such an application at this belated stage cannot be permitted. He accordingly prays for dismissal of the present petition.



10. The petitioner in rebuttal submits that the present application has not been filed at the belated stage but has been filed at the stage of replication and therefore, it is maintainable. It is accordingly prayed that the present petition be allowed.

11. No other argument is raised on behalf of the parties.

12. I have heard learned counsel for the parties and perused the case filed. The present civil suit (Annexure P-1) was filed by the plaintiffs/respondents No.1 to 3 seeking declaration to the effect that the plaintiffs being daughters of Inderjit Singh son of Narain Singh are joint owners in respect of the suit property; for further declaration to the effect that mutation No. 4498 regarding the estate of the said Inderjit Singh in respect of the suit land was sanctioned by revenue authorities in favour of defendants, is wrong, illegal null and void; suit for joint possession of 3/6th share of the plaintiffs in the suit land; suit for permanent injunction restraining the defendants, their agents and servants from transferring, selling, mortgaging, exchanging, gifting, creating any charge, disposing off or alienating the suit property.

13. The 3 defendants to the suit are defendant No.1- widow (since deceased) of Inderjit Singh; and the 2 sons of the late Inderjit Singh namely, Jaspal Singh, defendant No. 2; and Mastan Singh, defendant No.3. The civil suit was filed on 20.11.2012; written statement was filed on 10.04.2013; thereafter, the present application dated 17.05.2013 (Annexure P-4) was filed by the petitioner seeking impleadment in the above suit. The petitioner is seeking impleadment in



the above proceedings on two grounds: a) on the basis of the transfer deed dated 27.07.2011 (Annexure P-7) executed by defendant No.1 Harbans Kaur in favour of the petitioner; and b) by claiming himself to be son of Inderjit Singh.

14. However, the record bears out that the petitioner can claim no interest on the basis of Transfer Deed dated 27.7.2011, as the defendant No.1 Harbans Kaur herself had challenged the said Transfer Deed dated 27.07.2011 before the learned Civil Judge, Junior Division, Amloh by way of civil suit dated 21.05.2012 (Annexure R-2/4) filed against the petitioner, seeking *"a declaration to the effect that transfer deed dated 27.07.2011 bearing Vasika No. 1283 registered on 27.07.2011 in the office of Joint Sub Registrar Mandi Gobindgarh regarding.....landis null, void, invalid, ineffective and inoperative without any consideration being the result of fraud and misrepresentation and the same is liable to be set aside....."*. Para 1 of the said civil suit (Annexure R-2/4) further reads as under: -

"That the plaintiff is the mother of the defendant. The plaintiff has three sons and three daughters. The plaintiff was previously married to Sh. Hazara Singh s/o Hakam Singh at village Gobindpura Tehsil Nawan Shehar Distt. Shaheed Bhagat Singh Nagar and the defendant was born out of the wedlock of her and her previous husband and after broken the marriage with the previous husband the plaintiff was married with Sh. Inderjit Singh r/o village dadheri and the plaintiff took the defendant with her at the time of marriage with Sh. Inderjit Singh at village Dadheri." (Emphasis added)



15. From the above, it is crystal clear that the Transfer Deed on the basis of which the petitioner is claiming interest in the suit property is disputed by the alleged executor of the said deed herself by way of civil suit (Annexure R-2/4). It is further crystal clear that as per the mother of the petitioner herself, the petitioner is not the son of Inderjit Singh and is the son of Hazara Singh, first husband of Harbans Kaur. For this reason, both planks of argument of the petitioner are liable to be rejected.

16. As regards the reliance placed by the petitioner upon the various documentary evidence in form of passport, PAN card, et cetera (Annexure P-8 collectively), the same is also liable to be rejected as, as per the affidavit dated 23.01.2013 (Annexure R-2/1) filed by the petitioner himself before the Collector/Additional Deputy Commissioner Fatehagarh, the petitioner has mentioned himself to be “.....*Amrik Singh Son of Hazara Singh (mother Harbans Kaur)*”. From the above facts, it is very clear that it is prima facie proven on record that as per his own saying the petitioner is son of Hazara Singh and not the son of Inderjit Singh. It is also pertinent that the said documents were not appended by the petitioner in his application for impleadment (Annexure P-4). The said documents have been produced by the petitioner for the first time only before this Court.

17. It may also be pointed out that by way of the present suit (Annexure P-1), the plaintiffs/daughters of the deceased Inderjit Singh, have laid challenge to the Will dated 07.01.1987 (Annexure R-2/2)



executed by Inderjit Singh. The relevant extract of the said Will (Annexure R-2/2) reads as under: -

"I have two sons 1. Jaspal Singh 2. Mastan Singh and 3. Harbans Kaur is my wife, who is alive and they are serving and taking my care in every respect. I am very happy with their services and therefore, with my own free Will and without any pressure, I am executing this Will to the effect that after my death that 1. Jaspal Singh 2. Mastan Singh sons of Inderjit Singh executant and 3. Harbans Kaur wife of Inderjit Singh executant, residents of Dadheri, Tehsil Khanna shall be owners in possession and Legal Representatives of my entire moveable and immoveable property of every kind situated at Dadheri, Tehsil Khanna, in equal shares. I also have three daughters. But I do not want to give anything to my daughters in my property. If my wife dies during my lifetime, then my both sons only shall be my legal heirs, in equal shares. In case of death of any of my sons then his children shall be the Legal Representatives and no other person shall have any right in my property."

18. A further perusal of the document (Annexure R-2/3) which is Jamabandi dated 26.08.2003 shows that in the pedigree table, Inderjit Singh is shown to have only 2 sons and one wife/defendant No.1; and 3 daughters/plaintiffs there is no mention whatsoever of the petitioner.

19. It has been repeatedly held by the Hon'ble Supreme Court in numerous decisions that necessary party is the one without whose presence no effective and complete adjudication of the dispute can be made and no relief can be granted. The only reason which makes



it necessary to make a person party to the action is that the said action cannot be effectively and completely settled unless he is a party. From the above, it is patently established that the petitioner is not the necessary party to the proceedings; and therefore, his application for impleadment has been rightly rejected. Moreover, it is a well-established proposition of law that the plaintiff is the dominus litis/Master of his suit.

20. In view of the factual and legal position as noticed above, present revision petition is **dismissed**.

21. Pending applications, if any, stand disposed of.

21.01.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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