



CR-7303-2024

-1-

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

(117)

CR-7303-2024

DATE OF DECISION:- 07.01.2025

HANS RAJ

... PETITIONER

VERSUS

KRISHNA DEVI AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ramesh Chand Sharma, Advocate
for the petitioner.

SUVIR SEHGAL, J. (Oral)

1. This petition has been filed under Article 227 of the Constitution of India impugning order dated 21.08.2024, Annexure P-7, passed by the learned Additional Civil Judge (Senior Division), Abohar, District Fazilka, whereby application filed by the plaintiff-respondent No.1 under Order 1 Rule 10 (2) read with Section 151 CPC has been allowed.

2. Counsel for the petitioner submits that respondent No.1 had filed a suit for declaration to the effect that she has become owner to the extent of 1/4th share along with the defendants in the suit land on the basis of inheritance from her mother, Smt. Rameshwari Devi, widow, who died interstate on 27.11.1999. Suit was contested by defendants No.1 and 2 by filing a written statement claiming that the deceased had executed a registered WILL dated 27.02.1999 in their favour and a mutation was sanctioned on the basis of the WILL. An objection was taken that the suit is



CR-7303-2024

-2-

bad on account of non-joinder and misjoinder of necessary parties. Counsel states that the defendant No.3-petitioner adopted the written statement filed on behalf of defendants No.1 and 2 and issues were framed by the Trial Court on the basis of the pleadings of the parties. Krishna Devi, PW-1, stepped into the witness box as a witness and at that stage an application, Annexure P-5, was filed by her for impleading the legal representatives of Lakeshri Devi, which has been erroneously accepted by the Trial Court. Counsel urges that the application has been filed at a belated stage and despite being aware that Lakeshri Devi-deceased had legal heirs, they were deliberately not impleaded as a party to the suit.

3. I have heard counsel for the petitioner and considered his submissions.

4. Order 1 Rule 10 CPC, confers a wide power on the Court to delete the name of any person, who has been wrongly impleaded or to add any person, who has inadvertently not been included as a party to the suit. This power can be exercised by the Court at any stage of the suit. The only test being that the Court should be satisfied that the omission was under a bona fide mistake and that the inclusion/deletion is necessary for the adjudication of the dispute.

5. In the written statement filed by the contesting respondents, a specific stand has been taken that the suit is not maintainable on account of non-joinder and misjoinder of necessary parties. During the course of cross-examination of the plaintiff, she came to know that Lakeshri Devi, who was the pre-deceased sister of plaintiff's mother, Rameshwari Devi, had left behind three children. The inclusion of these legal representatives in the suit was,



CR-7303-2024

-3-

therefore, necessary in order to determine as to whether plaintiff is entitled to inherit the suit property as also the validity of the WILL executed by Rameshwari Devi, deceased. This Court is, therefore, of the view that the legal heirs of Lakesheri Devi are necessary and proper parties to the litigation and their impleadment is necessary. There is no error in the order passed by the Trial Court.

6. Finding no merit in the petition, it is dismissed with no order as to costs.

(SUVIR SEHGAL)
JUDGE

07.01.2025

kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No