



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-1638-2019

Date of Decision.:16.07.2025

Sanjeev

.....Petitioner

Vs.

Hari Singh (since deceased) through his LRs

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sandeep Singh Ghanghas, Advocate
for the petitioner.

Mr. Suryakant Gautam, Advocate
for the respondents.

DEEPAK GUPTA, J. (ORAL)

Petitioner is aggrieved by the order dated 19.01.2019 passed by learned Additional District Judge, Panipat, whereby application of the respondent for amendment in the written statement has been allowed.

2. Hari Singh son of Munshi executed an agreement to sell dated 12.04.2010 in favour of Sanjeev (*petitioner herein*) regarding property in dispute, by asserting to be absolute owner of the said land. Based upon the said agreement to sell, suit for specific performance was filed by the petitioner against Hari Singh, which was decreed by the trial Court on 21.08.2013. Appeal was filed by defendant of the suit Hari Singh, who expired during pendency of the appeal. Prior to his death, he moved an application for amendment of the written statement so as to contend that suit property was ancestral in his hands and that he was not the absolute owner thereof, as it was inherited by him from his forefathers. He also wanted to incorporate that though he does not have any son but has three daughters and after the amendment of 2005 in Hindu Succession Act, 1956, daughters had acquired the status of co-parceners.



3. After the death of Hari Singh daughters of Hari Singh (*respondents herein*), who were impleaded as LR's of Hari Singh moved an application in the capacity of said LR's to amend the written statement with the same pleas to the effect that they were co-parceners in the property in dispute and that as Hari Singh was not absolute owner of the suit property and that he was not competent to agree to sell or to alienate the property in any manner.

4. Both the aforesaid applications were considered together by learned Additional District Judge, Panipat, who noticed that as per the agreement to sell, Hari Singh had claimed to be absolute owner of the suit property and therefore, he could not be allowed to withdraw from the said alienation. Reliance was placed upon "***S.Malla Reddy vs. M/s Future Builders Co-operative Housing Society***" 2013 (2) RCR (Civil) 957.

5. However, the learned Appellate court was of the view that the daughters of Hari Singh had replaced him as his LR's and that they had the right to seek amendment having acquired the right of ownership in the capacity of co-parceners and as such, application for amendment was allowed.

6. Assailing the order, permitting the LR's of the defendant-respondent to amend the written statement, it is contended by learned counsel that since the respondents had entered into the shoes of the deceased-respondent Hari Singh, they could not have withdrawn from the admission made by their predecessor i.e. Hari Singh, as daughters of Hari Singh have not joined the proceedings in their independent capacity.

7. On the other hand, learned counsel for the respondents contends that as daughters of Hari Singh were co-parceners after the amendment in the Hindu Succession Act in 2005, so they could have sought the proposed amendment having acquired right in the suit property.



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8. After hearing learned counsel for the parties and perusing the record, this Court is of the considered view that the impugned order allowing amendment of the written statement cannot be sustained.

9. It is not in dispute that the daughters of Hari Singh were impleaded solely in their capacity as his legal representative and not in their individual right. Accordingly, they could not have been permitted to withdraw from or deny the admission made by the original defendant Hari Singh. In this regard, reliance may be placed on ***Sheetal Parshad v. Rameshwar Parshad Jain, 2014 (4) PLR 671***, wherein this Court held that once an application for amendment of the written statement had been dismissed and the defendant expired, his LRs, upon being brought on record, could not maintain a subsequent application for amendment raising the same pleas. Similarly, in ***Vidyawati v. Man Mohan, AIR 1995 SC 1653***, the Hon'ble Supreme Court held that a legal representative of a deceased-defendant is entitled to all rights and defences available to the deceased, except those personal to him, and that if the LR seeks to set up an independent right and title, the proper course is to get himself impleaded as a party in his own right or to file an independent suit.

10. Consequently, the impugned order dated 19.01.2019 is hereby set aside. Petition is allowed accordingly.

(DEEPAK GUPTA)
JUDGE

July 16, 2025

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No