



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

121**CR No. 5506 of 2025****DATE OF DECISION :- 19.08.2025****Naib Singh @ Nayab Singh and another****...Petitioners**

Versus

Mukhtiar Kaur and another**...Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL****Present:-** Mr. R.K. Singla, Advocate for the petitioners.

VIRINDER AGGARWAL, J. (Oral)

1. Petitioner vide this revision petition under Article 227 of the Constitution of India has assailed the order dated 15.05.2005 vide which the application for substitution of applicants as plaintiffs was allowed.
2. The brief facts leading to the petition are that Mukhtiar Kaur, predecessor in interest of respondents filed a civil suit for permanent injunction restraining the defendants from changing the nature of Pahi and causing obstruction, deprivation of use of such Pahi in dispute. Petitioner No. 1 appeared and filed written statement. Issues were framed by the learned Civil Judge inspite of the fact that defendant no. 3 has not filed written statement as yet. Plaintiff was granted ample opportunities to lead evidence but no evidence was led. During the pendency of the suit Mukhtiar Kaur died and Tarsem Singh son of Jaswant Singh was impleaded as LR of the plaintiff. Thereafter, an application under Order 22 Rule 10 of CPC for substitution of Mukhtiar Kaur was filed on the ground that she during her lifetime has executed registered transfer deed No. 746 dated 03/08/2022



whereby the land owned by Mukhtiar Kaur was transferred to the extent of 7/16 share in favour of Tarsem Singh and 7/32 share in favour of Manraj Singh vide registered transfer deed No. 746 dated 03/08/2022 and mutation was sanctioned on 26.08.2023. The application was contested by the petitioner but the same was allowed vide impugned order by learned Civil Judge and now vide this revision petition, the order passed by the learned Civil Judge allowing the application has been assailed on the grounds that right to sue does not survive after the death of original plaintiff Mukhtiar Kaur and Mukhtiar Kaur was granted five effective opportunities to lead evidence during her lifetime and has transferred the property owned by her without the leave of the Court. She allegedly executed a Will in favour of Tarsem Singh. Tarsem Singh had moved application for amendment of the plaint and for impleading him as plaintiff No. 2 which was withdrawn on the same day. The facts were well within the knowledge of Tarsem Singh and Manraj Singh before the death of Mukhtiar Kaur.

3. After going through the impugned order and application, I am of the considered opinion that learned Civil Judge has not committed any material illegality by exercising the jurisdiction vested in him as it is admitted fact that Tarsem Singh one of the applicant was already impleaded as LR of Mukhtiar Kaur on the basis of Will in his favour and later on this application was moved for substituting the original plaintiff with Tarsem Singh and Manraj Singh on the basis of transfer deed executed by Smt. Mukhtiar Kaur. Vide transfer deed Mukhtiar Kaur has transferred part of the land owned by her and the remaining land was inherited by applicant Tarsem Singh on the basis of Will and he has been impleaded as LR of Mukhtiar Kaur on the basis of Will. As regards survival of right to sue is concerned,

**CR No. 5506 of 2025****3**

the suit was with regard to use of passage in dispute so that cause of action was not personal to Smt. Mukhtiar Kaur but was attached to the land which is now owned by respondent-plaintiffs. So finding no merit in the revision petition, the same stands dismissed.

**(VIRINDER AGGARWAL)
JUDGE**

19.08.2025*P.Singh*

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No