



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

CR-915-2025 (O&M)

Date of decision : 13.02.2025

**Dalbara Singh @Darbara Singh (Deceased)
through his Lrs**

...Petitioner

Vs.

Satbir Singh (Deceased) through his LRs

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Jasleen Kaur Chandhok, Advocate
for the petitioner.

Mr. Sapan Dhir, Advocate (through v.c.)
Ms. Samina Dhir, Advocate
for the respondent.

ANIL KSHETARPAL, J. (Oral)

1. Late Sh. Dalbara Singh @ Darbara Singh (the plaintiff) through his legal representatives prays for setting aside the First Appellate Court's order permitting Sh. Jatinder Singh and Smt. Raminder Vir Kaur to contest the suit as legal representatives of Sh. Satbir Singh.

2. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

3. Sh. Dalbara Singh @Darbara Singh filed a suit on 31.08.2010 for specific performance of agreements to sell dated 30.05.1975, 25.07.1975, 10.08.1982, 31.08.1982, which was dismissed by the trial Court on various grounds including the fact that the suit was filed after a period of 38 years. The plaintiff filed an appeal. During the pendency of the appeal, defendant-Sh. Satbir Singh died on 18.08.2023. Two separate applications were filed to bring



his legal representatives on record. One application was filed by Sh. Jatinder Singh on the basis of a registered Will allegedly executed by Sh. Satbir Singh, whereas, the second application was filed by Smt. Raminder Vir Kaur being natural heir.

4. In accordance with the aforesaid position, the Appellate Court permitted both the applicants to be brought on record while leaving the parties to get the aforesaid issue decided in a separate proceedings. The petitioner (legal representatives of the plaintiff) assails its correctness.

5. Learned counsel representing the petitioner while relying upon the judgment passed by the Hon'ble Supreme Court in '*Karedla Parathasaradhi vs. Gangula Ramanamma (D) through L.Rs and others*', 2015 AIR (SC) 891 submits that under Order 22 Rule 5 of the Code of Civil Procedure, 1908, the Court is required to decide the question as to whether the applicant was legal representative of the deceased or not. She submits that decision on the aforesaid issue could not be postponed by the First Appellate Court.

6. This Court has considered the submissions made by the learned counsel representing the petitioner.

7. A Full Bench of this Court in '*Mohinder Kaur and another vs. Para Singh and others*' AIR 1981 (Punjab and Haryana) 130 held that decision under Order 22 Rule 5 of the Code of Civil Procedure, 1908 does not operate as *res judicata* and hence, in order to avoid delay in final decision of the suit or appeal, the Court may direct the parties to get the question of succession settled through a different suit and in the meantime permit the applicants to prosecute or defend the suit.

8. In this case, the issue is with respect to petitioner's locus standi to



file the present revision petition. The petitioners are not claiming to be legal heirs of Sh. Satbir Singh. Their suit has been dismissed by the trial Court against which the first appeal is pending. They have failed to show any prejudice which will be caused to them if both the applicants have been permitted to contest the appeal as legal representatives of late Sh. Satbir Singh for the purpose of defending the appeal.

9. Hence, no ground to interfere is made out.

10. The revision petition is dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

13.02.2025

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No