

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

2025:PHHC:001285



116

CR-9-2025 (O&M)

Date of decision: 08.01.2025

Dilbag Singh

...Petitioner.

Versus

Jagrup (since deceased) through his LRs

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Ram Kumar Saini, Advocate and
Mr. Ankit Saini, Advocate and
Ms. Ruby Gupta, Advocate for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 21.08.2024 (Annexure P-5), passed by the trial Court, vide which application for impleading LRs of plaintiff-Jagrup (since deceased), was allowed.

2. The brief facts relevant for adjudication of the present revision petition are that plaintiff-Jagrup (since deceased) had filed a suit against the petitioner/ defendant for recovery of Rs.5,00,000/- along with interest @ 1.5% per month w.e.f 26.04.2016 till its actual payment, on account of failure of defendant to pay the said amount to the plaintiff, pursuant to execution of an agreement-cum-mortgage deed executed on 26.04.2016

with consequential relief of prohibitory and mandatory injunction restraining the petitioner/ defendant from further selling, alienating/ transferring or encumbering land measuring 2 acres i.e. 1/5th share of land measuring 96 kanals 2 marlas comprising Khewat No.525//477 min, Khatoni No.611 situated at village Sarsod, Tehsil Barwala, District Hisar in favour of any person during pendency of the case and also for attachment of the said property before judgment, in terms of provisions of Order XXXVIII Rule 5 CPC.

3. On issuance of notice, petitioner/ defendant appeared and filed written statement denying the contents of the plaint.

4. During pendency of the suit, plaintiff Jagrup expired on 11.01.2020, the LRs of plaintiff Jagrup, who are present respondents moved application for their impleadment being legal heirs of plaintiff Jagrup. Application was filed on 22.07.2024 alleging therein that plaintiff had expired on 11.01.2020 leaving behind his LRs as detailed in para No.2 of the said application.

5. Notice of the said application was issued to the petitioner/ defendant who filed reply to the same alleging that the said application was time barred and had been filed after delay of one year and seven months and as such suit has abated and prayed for dismissal of the said application.

6. The aforesaid application was allowed by learned trial Court vide order dated 21.08.2024. Aggrieved against the said order, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

7. Learned counsel for the revision petitioner has contended that

the application for impleading LRs of deceased/ plaintiff should have been filed within the stipulated period of 90 days. He has further contended that despite the fact that the applicants/ respondents had knowledge of pendency of the suit, the application for substituting themselves in place of deceased plaintiff-Jagrup was not filed within reasonable time. He has argued that the amendment referred in the impugned order passed by trial Court is not applicable to the facts of the present case as in the present case suit filed by the plaintiff was fixed for adducing plaintiff's evidence and was not at the stage of pronouncing of judgment and has prayed that impugned order be set aside and application for impleadment be dismissed and suit is to be abated.

8. I have heard learned counsel for the petitioners and have gone through the relevant record.

9. Perusal of the impugned order reveals that it has referred to amendment of High Court of Punjab, Haryana and Chandigarh (notification No.GSR14/ C.A.5/1908/ S.122/92, dated 21.02.1992), which reads as under:-

For existing sub-rule (2) of Rule 3 of Order 22 substitute the following:-

“Where within the time limited by law no application is made under Sub-rule (1), the suit shall not abate as against the deceased plaintiff and the judgment may be pronounced notwithstanding his death which shall have the same effect as if it has been pronounced before the death took place, and the contract between the deceased and the pleader in that event shall continue to subsist.”

10. Keeping in view the aforesaid amendment which is applicable

to the case in hand, it has been rightly held by the trial Court that as per the aforesaid amendment made by Punjab and Haryana High Court, the suit shall not abate and legal representatives of deceased/ plaintiff have been rightly allowed to be brought on record.

11. Learned counsel for the petitioner has placed reliance upon the judgment of Hon'ble Supreme Court in *Gurnam Singh (D) through LRs and others Vs. Gurbachan Kaur (D) by LRs and others, 2017 (3) R.C.R.(Civil) 128* but same of no help to the counsel for the petitioner being based on distinguishable facts.

12. Thus, there being no illegality or infirmity in the impugned order, no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

13. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

08.01.2025

komal

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