



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

206

CR-760-2024 (O&M)

Date of Decision : 27.02.2025

MANPREET KAUR

... Petitioner

VERSUS

JAANVEER SINGH AND ORS

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Khunger, Advocate for the petitioner.

Mr. Navjot Singh Wahniwal, Advocate for respondent No.1.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 24.11.2023 (Annexure P-5) passed by the learned Civil Judge (Junior Division), Fazilka vide which the application filed by the petitioner herein under Order 1 Rule 10 CPC for being impleaded as a party was dismissed.

2. Brief facts relevant to the present *lis* are that respondent No.1 herein, who is the only contesting respondent, filed a suit for declaration to the effect that he is owner in joint possession of land detailed in the plaint on the basis of a registered Will dated 21.06.2021 executed by Gurvail Singh son of Harmeet Singh and further for injunction. During the pendency of the present suit an application was filed by the petitioner herein under Order 1 Rule 10 CPC seeking impleadment as a necessary party on the ground that she was the divorced wife of Gurvail Singh and had a right to claim

maintenance from the assets left behind by Gurvail Singh and that she had already filed a petition under Section 25 of the Hindu Marriage Act, 1955 which was pending before the Family Court at Fazilka. Reply was filed to the said application. Vide impugned order dated 24.11.2023 the application was dismissed. Hence, the present revision petition.

3. Learned counsel for the petitioner would contend that none of the other defendants are contesting the suit and it is a friendly match going on between the parties and that the petitioner would be deprived of her right of maintenance if no condition is put qua the right of maintenance of the petitioner herein. Learned counsel would further contend that a petition under Section 25 of the Hindu Marriage Act, 1955 for fixation of permanent alimony of ₹50,000 (rupees fifty thousand) per month is already pending in the Family Court at Fazilka. In support of his arguments, learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court in the case of **Mrs. Aruna Basu Mullick V/s Mrs. Dorothea Mitra [1983 (3) SCC 522]** and by the Chhattisgarh High Court in the case of **Arial I. Kumar s/o Late Ismail Kumar (Dead) V/s Shrimati Shikha Kumar w/o Late Arial [2017 (2) RCR (Civil) 578]**.

4. *Per contra*, learned counsel for respondent No.1 would contend that the petitioner was earlier married to Gurvail Singh however they were divorced by a decree dated 13.11.2017. Gurvail Singh is stated to have died on 20.06.2022 and the petition under Section 25 of the Hindu Marriage Act, 1955 for fixation of permanent alimony was filed after the death of Gurvail Singh. It is further the contention that since 2017 till 2022 no such

application was filed. Learned counsel would further contend that the petitioner is not a necessary party inasmuch as she has already filed a petition in which the present respondent is also impleaded as a party and if it is eventually held that the petitioner had a right to maintenance, appropriate orders would be passed in the said petition.

5. Heard.

6. In the present case a suit has been filed by the nephew of Gurvail Singh on the basis of a registered Will dated 21.06.2021. The petitioner herein was granted a decree of divorce dissolving the marriage between Gurvail Singh and her on 13.11.2017. It was not the case of the petitioner that the application for grant of permanent alimony was filed along with the divorce petition or during the lifetime of Gurvail Singh. It is an admitted fact that the application under Section 25 of the Hindu Marriage Act, 1955 was filed after the death of Gurvail Singh.

7. The reliance placed upon the judgment in the cases of **Mrs. Aruna Basu Mullick** (supra) and **Arial I. Kumar** (supra) would be of no avail to the counsel for the petitioner inasmuch as in both the said judgments there was already a decree for maintenance and their Lordships had held that on the death of the husband the decree would not be wiped out. There can be no quarrel with the said proposition of law. However, in the present case there is no decree of maintenance in favour of the petitioner herein. Rather, the petitioner has only filed a petition under Section 25 of the Hindu Marriage Act, 1955 after the death of Gurvail Singh which petition is still pending adjudication. In view thereof, the petitioner is not a necessary party

in the present case which has been filed by respondent No.1 for declaration of his rights based on the Will. It is to be noticed that it is not a case of the petitioner herein that she has any right otherwise in the property on the basis of any Will or any other transfer deed etc.

8. In view of the above, I do not find any merit in the present revision petition and the same being devoid of any merit is accordingly dismissed.

9. It is, however, made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10. Pending applications, if any, also stand disposed off.

27.02.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No