

(2013) 08 P&H CK 0881
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 2807 of 2013

Jai Bhagwan and Others

APPELLANT

Vs

Ved Kanwar

RESPONDENT

Date of Decision : 21-08-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 5
Constitution of India, 1950 — Article 227

Citation : (2013) 08 P&H CK 0881

Hon'ble Judges : Paramjeet Singh, J

Bench : Single Bench

Advocate : Anil Kumar Gahlawat, for the Appellant; Saurabh Dalal, for the Respondent

Final Decision : Disposed Off

Judgement

Paramjeet Singh, J.—Instant revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 29.04.2010 (Annexure P/8) passed by learned Civil Judge (Junior Division), Jhajjar whereby application of the respondent/plaintiff for bringing on record the LRs of deceased Ram Chander-defendant No. 1 has been allowed and order dated 09.08.2012 (Annexure P/9) passed by learned Additional District Judge, Jhajjar whereby appeal filed by the petitioners against the order dated 29.04.2010 has been dismissed. Heard.

2. Learned counsel for the petitioners is aggrieved against the order dated 29.04.2010 (Annexure P/8) and order dated 09.08.2012 (Annexure P/9) whereby the LRs of deceased Ram Chander-defendant No. 1 including the plaintiff who is shown to be son of deceased defendant No. 1 have been ordered to be brought on record.

3. It would be appropriate to mention here that the LRs of deceased Ram Chander-defendant No. 1 are brought on record only for the limited purpose of defending the suit. Anything said in the order will not affect the decision on merit

with regard to the authenticity as to whether the petitioners are legal heirs of deceased Ram Chander. If, at all, the petitioners are aggrieved, then they can approach independently for enforcement of their rights in the Civil Court.

4. In Bhajan Singh Vs. Subhash Chander and Others , this Court has held as under:

6. It is now well settled that determination under Order 22 Rule 5, CPC as to who is legal representative of the deceased plaintiff is only for the purpose of bringing legal representatives on record for the conduct of legal proceedings and does not operate as res judicata and inter se dispute between the rival legal representatives has to be independently tried and decided in separate proceedings. In view of this, the trial Court ought to have allowed all the legal representatives to be brought on the record so that they could represent the estate of the deceased. So far as the genuineness and validity of the Will is concerned, the same can be decided between the legal representatives whenever any suit/proceedings for succession of the estate are filed either on the basis of natural succession or on the basis of the Will.

5. In view of this, there is no illegality or perversity in the impugned order. However, the order allowing the application is to be treated for the limited purpose of defending the suit. The LRs who are brought on record are only entitled to the extent of defending the suit and not otherwise. Present petition is disposed of in the above terms.