

(1992) 05 P&H CK 0012

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 2169 of 1991

Sumer Singh

APPELLANT

Vs

Kashi Ram

RESPONDENT

Date of Decision: May 18, 1992**Citation:** (1992) 05 P&H CK 0012**Hon'ble Judges:** V.K. Jhanji, J**Bench:** Single Bench**Final Decision:** Dismissed

Judgement

V.K. Jhanji, J.

Plaintiffs filed a suit for declaration claiming themselves to be owners-in-possession over the land in suit. They also challenged the change in Khasra Girdawari in favour of the Defendant, being illegal and against the factual position.

2. Notice of the suit was issued to the Defendant, who contested the suit.

3. During the pendency of the suit and that too after the Plaintiffs examined two witnesses, an application was filed for the amendment of the plaint. In the application, it was stated that Plaintiffs No. 1 and 2 are dead and so their names be deleted and their legal representatives be brought on record. The other amendment sought was that one of the Plaintiffs has been described as Shrimati Varinder Kanwar whereas it should have been Narinder kanwar. The third amendment sought was to add names of certain persons as proforma Defendants.

4. This application, on contest, was allowed in part. The trial Court allowed the Plaintiffs (petitioners herein) to correct the name of Plaintiff, Varinder Kanwar to that of Narinder kanwar. The other prayers, i.e. to bring on record legal representatives of Plaintiffs No. 1 and 2 who had already died before the filing of the suit, as well as for adding proforma Defendants, were declined. This order has been challenged by the Petitioners in this civil revision.

5. After going through the order and hearing the learned Counsel for the Respondent, averred I am of the view that no interference is called for in this civil revision.

6. Petitioners in their application for amendment of the plaint, have stated that Plaintiff No. 1 and 2 died before the filing of the suit. The suit was filed in January, 1989 whereas application has been filed only on 11.1.1991. I am in agreement with the view taken by the trial Court that the suit filed by a dead person or against a dead person is a nullity and their legal representatives cannot be allowed to be brought on record. So far as the other amendment is concerned, Petitioners have not been able to prove to the satisfaction of the trial Court as to how the persons now proposed to be brought on record as Defendants are necessary for the decision of the suit. Though the Plaintiffs have stated in their application that they be added as proforma Defendants, yet it has not been stated as to how they would be affected by the decision of the suit. In case, they are going to be affected by the decision of the suit, then they are at liberty to make appropriate application for getting themselves impleaded as Defendants.

7. Consequently, I find no merit in this civil revision. The same is hereby dismissed with no order as to costs.