

JASBIR KAUR v. KASHMIR SINGH, (2022-2)206 PLR 786

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice Anil Kshetarpal.

JASBIR KAUR – Petitioner

Versus

KASHMIR SINGH and Others – Respondents

Civil Revision No. 6736 of 2017 (O&M)

Civil Procedure Code, 1908 (V of 1908), Order 1 Rule 8 - Representative suit for partition - Impleading all the co-owners as party-defendants - Order I Rule 8 CPC is applicable when there are numerous persons having the same interest - Plaintiff, while filing the suit, stated that since there are numerous co-owners of the property, therefore, he may be permitted to give notice via publication in accordance with Order I Rule 8 CPC, which was permitted - Every co-owner has an individual interest in a suit for partition - There is no community of interest between the various co-owners in such suits - In a suit for partition, every party, be it the plaintiff or the defendant, has his own interest to secure - Names of various co-owners can be obtained from the revenue record or the municipal record to ensure proper service of notice - Trial Court is requested to direct the plaintiff to implead all the co-owners as party-defendants and thereafter, proceed with the matter.

Mr. Ashwani Bakshi, for the petitioner(s). None for the respondents.

Anil Kshetarpal, J. - (16.05.2022) - Despite the service of notice, the respondent No.1, 3 and 12 are not represented.

2. This revision petition is arising from an interlocutory order passed by the trial Court while permitting the plaintiff (respondent No.1 herein) to file a representative suit for partition of the immovable property under Order 1 Rule 8 CPC. It would be noticed here that the plaintiff, while filing the suit, stated that since there are numerous co-owners of the property, therefore, he may be permitted to give notice via publication in accordance with Order I Rule 8 CPC which has been permitted. It is observed that every co-owner has an individual interest in a suit for partition. There is no community of interest between the various co-owners in such suits. Order I Rule 8 CPC is applicable when there are numerous persons having the same interest. In fact, in a suit for partition, every party, be it the plaintiff or the defendant, has his own interest to secure. Moreover, in a suit for partition,

the names of various co-owners can be obtained from the revenue record or the municipal record as the case may be to ensure proper service of notice.

3. It would be noticed here that the plaintiff prays for partition of the property located in the revenue estate of Jind, which is an urban area.

4. Keeping in view the aforesaid facts, the present revision petition is allowed and the order, under challenge, is set aside. The trial Court is requested to direct the plaintiff (respondent No.1 herein) to implead all the co-owners as party-defendants and thereafter, proceed with the matter.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

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