

counsel : *Pratibha Yadav, Manoj Tanwar*

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2014 PLRonline 0216

PUNJAB AND HARYANA HIGH COURT

*Before : Justice G.S. Sandhawalia.*

RAM PHAL and others – Petitioner

Satnarain, plaintiffs no. 1, 3, 5 and 7 respectively was dismissed and the case was adjourned for plaintiffs' evidence by holding that the death of one of the plaintiffs did not make the suit abate and there was a right to sue which survives. The present revision petition has been filed by legal representatives of the said deceased-plaintiffs.

2. A perusal of the paper book would go on to show that the plaintiffs had filed a suit for declaration that they are owners in possession as co-sharers of the agricultural land measuring 16 kanals and 6 marlas. The said suit was instituted on 03.01.2008. The plaintiffs no. 1, 3, 5 and 7 expired in the years 2010 and 2013 and resultantly, the application dated 08.07.2013 for impleading the legal heirs was filed. The said application was opposed by the defendants on the ground that the limitation was only 90 days and the suit had to abate. Resultantly, the said impugned order has been passed whereby, the application to implead them has been dismissed but the suit regarding the

*“23. Hence, in view of these facts, it cannot be said that the suit filed by respondent-plaintiff stood abated as application for bringing on record legal representatives of deceased-plaintiff was not filed within prescribed period of limitation of 90 days or that the application for bringing on record legal representatives of deceased -defendant (Subhash Chander) was also not filed within prescribed period of limitation. There is no dispute that right to sue survives to legal representatives of deceased-plaintiff and the right to sue also survives qua legal representatives of deceased-defendant -Subhash Chander. Hence, there is no limitation for bringing on record legal representatives of the deceased litigants.”*

5. The judgment in *Bibijan’s case* (supra) would be of no help since once there is an amendment made by this Court, the limitation period of 90 days would not be applicable.

6. Similarly, the judgment in *Paras Ram’s case* (supra) would also not be applicable.