

**In the Court of Supreet Kaur,
Additional Civil Judge (Senior Division), Kapurthala.**

CNR No. PBKP020007522022

Case No. CS/526/2022

IA/01/2023 dated 26-05-2023



Presented on : 09-12-2022

Registered on : 26-05-2023

Decided on : 26-05-2023

State Bank of India

Versus

Balwant Singh etc.

Application for impleading the legal heirs of defendant no.1
Balwant Singh.

Present: Sh. Vinay Garg, Advocate counsel for the plaintiff/applicant.
Sh. Gurwinder Arora Advocate counsel for
defendants/respondents no.2 and 3.

ORDER

1. This order of mine shall dispose off an application filed by
plaintiff for impleading the legal heirs of defendant no.1 Balwant Singh
through its counsel Sh.Vinay Garg Advocate.

2. It is stated in the application that during the course of service
on the defendant no.1 Balwant Singh in the present suit it was revealed
that the defendant no.1 Balwant Singh has expired. Defendant no.1
Balwant Singh has died leaving behind the following as his legal heirs:-

1-a. Darshan Singh s/o Balwant Singh

1-b. Mehal Singh s/o Balwant Singh.

It is further averred that the plaintiff bank wants to implead the above mentioned legal heirs of defendant no.1 Balwant Singh in the present suit. As such, it has been prayed that the legal heirs of defendant no.1 Balwant Singh as mentioned above may kindly be allowed to be impleaded in the present suit.

3. Reply to the application was filed by the defendants no.2 and 3 taking preliminary objection that the application under reply is not maintainable and deserves to be dismissed. It is worth mentioning here that the legal heirs of any defendant can only be impleaded in the case, if the said defendant dies during the pendency of the case. However, in the instant case, the defendant no.1 has died on 07.07.2022 whereas the present suit was filed on 11.10.2022 i.e. after about three months of the death of defendant no.1. The suit against a dead person is nullity in the eyes of law and as such the suit against the defendant no.1 is liable to be dismissed. There is no provision to implead the L.Rs of deceased on record in case the said person would have died prior to filing of the suit and as such the present application is an abuse of process of law and same is liable to be dismissed. On merits, the contents of the application have been denied and a prayer for dismissal of the application has been made.

4. I have heard Sh.Vinay Garg, Advocate for applicant/plaintiff as well as Sh.Gurwinder Arora, Advocate counsel for respondents/defendants no.2 and 3 and have gone through the case file very carefully and thoroughly. Perusal of file reveals that the present suit

has been filed by the plaintiff against the defendants for recovery of the amount as fully detailed in the head note of the plaint. Thereafter, notice was issued to the defendants. The defendants no.2 and 3 appeared and filed an application for dismissal of the suit against the defendant no.1, which has been dismissed vide order of even date. Now the present application has been filed by the plaintiff bank for impleading the legal heirs of defendant no.1. As per averments mentioned in the application, it is only during the pendency of the present suit that the plaintiff came to the knowledge of the fact that defendant no.1 has died as such. As such, the application in hand is well maintainable. However, the application in hand has been filed by the plaintiff bank for impleading Darshan Singh and Mehal Singh sons of Balwant Singh as legal heirs who were already party as defendant no.2 and 3. However, as per the defendants no.2 and 3, Balwant Singh was also having five daughters. As such, since the plaintiff has not disclosed the complete legal heirs of the defendant no.1 as such, application in hand stands dismissed with the directions to the plaintiff to disclose the complete legal heirs of defendant no.1 and thereafter plaintiff shall be at liberty to move fresh application for impleading the legal heirs of defendant no.1. Application in hand stands allowed and disposed off accordingly.

Pronounced in open Court
Dated: 26.05.2023.

Indraj Ram
Stenographer Gr.-I

(Supreet Kaur),
Addl. Civil Judge(Sr Division),
Kapurthala. UID PB00370