

**IN THE COURT OF SHIV KUMAR :
DISTRICT JUDGE, (WEST)-02,
TIS HAZARI COURTS: DELHI.**

P.C. No. 39/22

CNR No. DLWT01-005145-2022

Gurbir Singh & Anr.

..... Petitioners

Versus

State and Others

.....Respondents

Order on application under order 22 rule 3 CPC.

1. Vide this order I shall decide application filed by Smt. Gurjit Kaur, under order 22 rule 3 CPC read with section 151 CPC for substitution of legal heirs of deceased petitioner no. 1.

2. It is averred in the application that petitioner no. 1/late Sh. Gurbir Singh has expired on 15.04.2024 and he has left behind his wife/Smt.Gurpal Kaur (petitioner no. 2) and his daughter Smt. Gurjit Kaur.

3. The present application has been filed on 02.07.2024.

4. On the above said application, arguments were heard from Id. Counsel for the petitioner on 19.12.2024 but the right of respondents

to file reply and address arguments was closed on that day as despite giving last opportunity, Id. Counsel for R-2 did not file reply and also was not present for addressing arguments on that day.

5. I have perused the Will dated 18.08.2021, executed by late Sh. Raminder Singh and for this Will, the present petition has been filed for issuance of Probate.

6. In the above said Will, late Sh. Raminder Singh has bequeathed his movable and immovable properties to his parents i.e. late Sh. Gurbir Singh and Smt. Gurpal Kaur in equal shares. It is further mentioned in the Will that it is the duty of the parents of the deceased to look after and take care of his both daughters till they attain the age of majority or as per his parents liking/wish and after his daughters attain the age of majority, the said property will go to his daughters in equal shares.

7. It is further mentioned in the Will that, “and whereas, it is made clear that in case, I will get any other property (movable or immovable) or inherit through my parents or otherwise, in that event that property will/shall go to my only sister, namely, Smt. Gurjit Kaur W/o Sh. Balbir Singh, R/o 103, Gujranwala Town/II, Delhi”.

8. It is further mentioned in the Will that, “ I further clarify the position that in case of unnatural death of mine, as threatened by my wife number of time, as I have apprehension from the act and conduct

of my wife, the entire properties as mentioned above, will firstly will go to my parents and thereafter to my sister named above.”

9. Smt. Gurpal Kaur and Smt. Gurjit Kaur are class-I legal heirs of deceased Sh. Gurbir Singh being her wife and daughter respectively and they have the right to inherit the share of deceased Gurbir Singh.

10. In the present application, the right of the parties cannot be decided. It cannot be decided as to which of the parties are entitled to inherit the properties of deceased late Sh. Raminder Singh, on the basis of the Will executed by late Sh. Raminder Singh. The present application only pertains to the right of the applicant to pursue the present petition and represent the estate of deceased Sh. Gurbir Singh.

11. The right to sue survives in favour of legal heirs of deceased late Sh. Gurbir Singh. So they have the right to represent the estate of of deceased Gurbir Singh and be impleaded as his legal heirs.

12. The applicant has mentioned that late Sh. Gurbir Singh has executed a registered Will dated 20.12.2021 and by way of said Will, he has bequeathed all his movable and immovable properties in favour of his daughter Smt. Gurjit Kaur. So, right to sue survives only in favour of Smt. Gurjit Kaur.

13. The applicant has also placed order dated 09.10.2024 passed by Sh. Dharmender Singh, Ld. DJ-01, West, and by way of said order, in another connected matter, the Id. District Judge has made only Ms

Gurjit Kaur as L.Rs of deceased late Sh. Gurbir Singh, on the basis of no objection filed by Smt. Gurpal Kaur.

14. In the present case 'No Objection' has not been filed by Smt. Gurpal Kaur in favour of the applicant. The Will dated 20.12.2021 has yet to be proved. The present application is within limitation. Therefore, Smt. Gurpal Kaur and Smt. Gurjit Kaur are impleaded as L.Rs of deceased petitioner no. 1 in the present case. Application stands disposed off accordingly.

**Announced in open Court
today on 25.01.2025.**

(SHIV KUMAR)
DJ-02, Court no. 127,
West Distt. THC Delhi.