

**IN THE COURT OF VIJAY SINGH DADWAL, PCS,
CIVIL JUDGE (JUNIOR DIVISION), GURDASPUR.
(UID No.PB0478)**

CNR No.: PBGD02-000951-2023
CIS No.: CS-607-2023
File No.: 957 Dated 24.04.2023
Date of order: 07.08.2026
Pending for: 08.09.2025

Sukhwinder Kaur

.....Plaintiff/applicant

Versus

Shanti Devi & Others

...Defendants/respondents

**Application under Order 1 Rule 10 (2) read with Section 151 of Code of
Civil Procedure**

Present:- Sh.PS Saini Advocate, Counsel for the plaintiff/applicant.
Sh.BS Aujla Advocate, Counsel for defendant/respondent No.1.
Sh.Shubpreet Singh Advocate, Counsel for
defendants/respondents No.2 & 3.

ORDER:

1. This order of the Court shall dispose of an application filed by plaintiff/applicant under Order 1 Rule 10 read with Section 151 of Code of Civil Procedure (In short CPC) for impleading deceased Raj Kumar through his LR's as defendant No.4 in the present suit.
2. Brief facts of the present application, as put forth by the plaintiff/applicant are that deceased Buta Ram, whose property is in question in the present suit died leaving behind one daughter (i.e. plaintiff) and three sons i.e. defendants/respondent No.2 & 3 and one Raj Kumar, who also died after the death of Buta Ram his father. The third son namely Raj Kumar, who was serving as Teacher died leaving behind his widow Kusham Lata and his sons Abhishek and Priyanshu, all residents of Prem Nagar, Opposite Shehzada Gas Agency, Tehsil

and District Gurdaspur. Inadvertently, the plaintiff/applicant did not plead his deceased brother, who was survived by his widow and two sons referred above as party in this case. In fact, Raj Kumar deceased through his LR's/Legal Heirs, referred above is very necessary party to the suit as he also falls within the Class-I legal heirs of deceased Buta Ram, whose property is in question in the present case. As Raj Kumar brother of plaintiff/applicant had died prior to filing of the present suit, therefore, the plaintiff/applicant wrongly presumed that Raj Kumar through his LR's is not a necessary party, therefore, she did not refer her name in the plaint. From the pleadings of the parties as well as from the evidence so far brought on record, it has become clear that Raj Kumar is the third son of deceased Buta Ram, who also died after the death of Buta Ram, after leaving behind his widow and two sons referred above. The legal heirs of Raj Kumar are also very necessary party to be impleaded in this case in order to completely and effectually adjudicate upon and settle all the questions involved in this suit. The impleadment of Raj Kumar through his legal heirs at this stage is not going to adversely effect that defendants/respondents and also will not change the nature of the suit, rather it will enable this Court to effectually and completely adjudicate upon and settle the question involved in this suit. Plaintiff/applicant further prayed that the application may kindly be allowed and Raj Kumar (third son of Buta Ram) through his LR's/legal heirs may please be impleaded as defendant No.4 in the present suit, in the interest of justice.

3. In written reply filed to the application, defendants/respondents raised preliminary objections that the application is not maintainable in the present form and the applicant has no locus-standi to file the present application and the same has been filed only to delay the proceedings of the case at this stage. On merits, it is submitted submitted that The plaintiff/applicant was very well aware about the LR's of Buta Ram deceased at the time of filing this suit. She was also having time for filing the present application when the defendants/respondents took objections of non-joinder and mis-joinder of necessary parties, but after long time and after about completing the plaintiff's evidence, filing this application by engaging another Counsel only for the purpose to cut the point of technicality taken by the defendant/respondent No.1 in this case as plaintiff/applicant has also been cross-examined and question has been put regarding the other LR's, which are not made party in this case. If at this stage, the present application is a allowed then it will cause prejudice to the defendant/respondent No.1. So, the plaintiff/applicant has filed this application only for the purpose to cover the technicality against her. Remaining material averments of the application have been denied and prayer for dismissal of the same with costs has been made.
4. This Court heard Learned Counsel for the applicant as well as Learned Counsel for the plaintiff/respondent and with their able assistance, had gone through the judicial file carefully.
5. By way of filing the present application, plaintiff/applicant seeks impleadment of Raj Kumar (third son of deceased Buta Ram, whose

- property is in question in the present case) through his LR's mentioned above as defendant No.4 in the present case on the ground that as per the nature of the case, he is the necessary party to the present suit. Therefore, he is the necessary party to be impleaded in the present case for complete and proper adjudication of the same.
6. Order 1 Rule 10 CPC provides for impleadment of the parties in a suit and parties can be impleaded in the suit only if they are necessary or proper parties in the case. Necessary party in particular case is the one who have all material points in common with plaintiff or defendant and adjudication of these material points without the impleadment of such party will be ineffective and decree will not be executable. Whereas, proper parties are the one without whom execution of decree is possible but such party does have some points in common with the plaintiff or defendant and as such, for complete adjudication of the case, impleadment of such proper party become necessary. Support is drawn from the case titled as ***“Rashtriya Mill Mazdoor Sangh Versus Express Mills, Nagpur and Others, 2007 (4) CCC 321”*** wherein it has been held that if a person has a right or interest in the subject matter of suit then such a party is a necessary party.
7. In the instant case, plaintiff/applicant has filed the present suit for declaration to the effect that she is the co-owner/co-sharer in joint possession in the suit property/estate left by her father Buta Ram on the basis of natural succession. She also challenged the transfer deed dated 07./05.2021 executed by Buta Ram in favour of defendant/respondent No.1 and the Will dated 04.05.2026 allegedly

executed by Buta Ram in favour of defendants/respondents No.1 to 3. She also prayed for relief of permanent injunction against defendant/respondent No.1 regarding the alienation of the suit property and regarding her possession over the suit property. To the said suit of the plaintiff/applicant, defendants/respondents filed written statement taking preliminary objection that the suit is bad for non-joinder of necessary parties. Further in para No.3 on merits, facts regarding the other son of Buta Ram namely Raj Kumar have clearly been mentioned. The said written statement was filed on dated 15.05.2023, but despite that, the plaintiff/applicant failed to implead said Raj Kumar in the present suit as a party immediately after the filing of written statement by the defendants. After that, the issues in the present case were framed on dated 29.10.2024 and plaintiff/applicant also examined two witnesses including herself in her evidence. It is only on dated 14.05.2026 when the plaintiff/applicant moved the present application by mentioning the above facts in the same.

8. Keeping in view the nature of the case, this Court is of the view that Raj Kumar or after his death, his Legal Representatives are necessary parties to the present suit to be impleaded in the same and if the same is/are not impleaded, the suit of the plaintiff/applicant will necessarily be failed due to the strict technicality of law. Though the plaintiff/applicant was not vigilant and was/is delinquent of ignoring even the objections taken by the defendants/respondents in their written statement, to file the present application in time, but it is also a

settled law that every effort of the Court should be to decide the matter on merits rather than to dismiss the same on the basis of strict technicalities of law. In order to adjudicate the present case on merits, Raj Kumar through his LR's is required to be impleaded as a party in the present suit. Hence, this Court comes to the conclusion that under the peculiar circumstances of the present case, Raj Kumar through his LR's is the necessary party to the suit and adjudication of the material points involved in the present case without his impleadment will be ineffective. Hence, keeping in view of the above discussion, application moved by the plaintiff/applicant is hereby allowed and Raj Kumar, through his Legal Representatives namely Kusham Lata, Abhishek and Priyanshu, all residents of Prem Nagar, Opposite Shehzada Gas Agency, Tehsil and District Gurdaspur is hereby ordered to be impleaded as defendant No.4 in the present suit. However, since the plaintiff/applicant has caused delay in the proceedings of the present case, therefore, she is required to be burdened with the costs. Hence, cost of Rs.2,000/- is hereby imposed upon the plaintiff/applicant, which shall be deposited by her in Free Legal Aid Fund, Gurdaspur.

**Pronounced in open Court:
07.08.2026**

**Vijay Singh Dadwal, PCS
Civil Judge (Junior Division)
Gurdaspur.(UID No.PB0478)**

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Sukhwinder Kaur Versus Versus Shanti Devi & Others

Present:- Sh.PS Saini Advocate, Counsel for the plaintiff.
Sh.BS Aujla Advocate, Counsel for defendant No.1.
Sh.Shubpreet Singh Advocate, Counsel for defendants No.2 & 3.

Arguments heard. Vide separate detailed order of even date, application filed by plaintiff under Order 1 Rule 10 read with Section 151 CPC stands allowed, as detailed therein.

Now to come up on 17.08.2026 for filing amended head note and for deposit of cost by plaintiff

Pronounced in open Court:
07.08.2026
Self Typed

Vijay Singh Dadwal, PCS
Civil Judge (Junior Division)
Gurdaspur.(UID No.PB0478)