

RFA No.92 of 2015

22.6.2021

Present: Mr. Arvind Sharma, Additional Advocate General with Mr. Kunal Thakur, Deputy Advocate General, for the appellant-State.

Mr. Rupinder Singh Thakur, Advocate for respondents No. 1, 7, 8, 10, 13 to 15 and 18.

Through video-conferencing

CMP No.8740 of 2020

By way of instant application filed under Order 1 Rule 10 CPC, prayer has been made on behalf of applicant Jitesh Kumar alias Bobby for his impleadment. Despite repeated opportunities, no reply has been filed on behalf of the non-applicant/appellant. However, today during the course of hearing, Mr. Arvind Sharma, learned Additional Advocate General on instructions of Executive Engineer, PWD, Rajgarh, District Sirmaur, Himachal Pradesh, states that applicant Jitesh Kumar is the son of late Sh. Rajesh Kumar son of Sh. Joginder Singh. Rajesh Kumar and Joginder Singh were real brothers and as such, applicant is grandson of late Sh. Hardam Singh, who during his life time executed a Will No.56 of 2013, bequeathing entire property of him in favour of applicant Jitesh Kumar and as such, non-applicant/appellant shall have no objection in case prayer made on behalf of the applicant for his impleadment is accepted.

Having heard learned counsel representing the parties and perused the averments contained in the application, which is duly supported by an affidavit as well as documents annexed therewith, this Court finds that original respondent No.5, Sh. Hardam Singh son of late Sh. Jeet Singh has expired on 18.5.2018, but before his death he executed a Will No.56 of 2013 registered with Sub Registrar Pachhad, District Sirmaur, H.P., in favour of the applicant, who is son of Sh. Rajesh Kumar. On the basis of aforesaid Will, mutation of inheritance already stands sanctioned on 25.8.2018 by Assistant Collector 2nd Grade, Narag. Copy of Will No.56 of 2013 as well as copy of mutation dated 25.8.2018 stand annexed with the application as Annexure A-1 and A-2. Legal heirs certificate annexed with the application reveals that otherwise late Sh. Hardam Singh is survived by four daughters namely Promila Devi, Sharmila Devi, Rekha Devi, Rachna Devi and wife Pariksha. Since by way of mutation No.56 of 2013, entire estate stands devolved upon the applicant, he has prayed for his impleadment in the instant appeal. This Court with a view to ascertain the correctness of the averments contained in the application with regard to execution of the will, if any, in favour of the applicant, specifically directed the applicant to file affidavit of LRs of late Sh. Hardam Singh. Pursuant

to orders passed by this Court original LRs of Hardam Singh have filed their affidavits, stating therein that their late father Sh. Hardam Singh during his life time had executed a Will No.56/2013 bequeathing his entire estate in favour of the applicant, who is otherwise grandson of their father and as such, they shall have no objection in case prayer made in the application is allowed. Consequently, in view of the aforesaid affidavits filed by the LRs of deceased Hardam Singh, prayer made in the application on behalf of the applicant deserves to be allowed. Accordingly, the present application is allowed and applicant Jitesh Kumar is ordered to be impleaded as LRs of deceased respondent No.5, Sh.Hardam Singh. Registry to carry out necessary correction in the memo of the parties to be filed by learned counsel for the applicant within a period of two weeks. The application stands disposed of.

CMP No.8741 of 2020

By way of instant application filed under Order 1 Rule 10 CPC, prayer has been made on behalf of applicant /proposed legal representatives of respondent No.21, Hoshiyar Singh for his impleadment. Despite repeated opportunities, no reply has been filed on behalf of the non-applicant/appellant. However, today during the course of hearing, Mr. Arvind Sharma, learned Additional Advocate

General on instructions of Executive Engineer, PWD, Rajgarh, District Sirmaur, Himachal Pradesh fairly states that respondent No.21 has executed a Will having registration No.54 of 2011 registered with Sub Registrar Pachhad in favour of the applicant, whereby he has bequeathed his entire estate in favour of the applicant and as such, non-applicant/appellant shall have no objection in case prayer made in the application is allowed.

Having heard learned counsel representing the parties and perused the averments contained in the application, which is duly supported by an affidavit as well as documents annexed therewith, this Court finds that respondent No.21, late Sh. Hoshiyar Singh son of Sh. Sohan Singh has expired on 6.2.2013, but before his death he executed a Will No.54 of 2011 in favour of the applicant, who is son of Sh. Hoshiyar Singh and as such, he being son of late Sh. Hoshiyar Singh is otherwise required to be impleaded in the present lis. This Court with a view to ascertain the correctness of the averments contained in the application with regard to execution of the Will No. 54 of 2011, if any, in favour of the applicant by late Sh. Hoshiyar Singh, deemed it necessary to call for the affidavits of other LRs of deceased Hoshiyar Singh. Copy of Will No.54 of 2011 and copy of mutation dated 29.3.2013 stand annexed with

the application as Annexure A-1 and A-2. Though, LR's certificate annexed with the application reveals that late Sh. Hoshiyar Singh is survived by two daughters namely, Rani Devi, Romila Devi and wife Smt. Bimla Devi, but by way of registered Will, entire estate has been devolved upon the applicant/proposed LR. Above named LR's of deceased Hoshiyar Singh have executed their affidavits, specifically stating therein that since entire estate of deceased Hoshiyar Singh stands devolved upon the present applicant, they shall have no objection in case his prayer for impleadment is accepted.

Consequently in view of the above, there appears to be no impediment in accepting the prayer made in the application and same is accordingly allowed and applicant Durga Singh is ordered to be impleaded as LR of deceased Hoshiyar Singh. Registry to carry out necessary correction in the memo of the parties to be filed by learned counsel for the applicant within a period of two weeks. The application stands disposed of.

CMP(M) No.1224 & 1225 of 2019

By way of instant applications filed under Order 22 Rule 4 & 9 read with Section 151 CPC and Section 5 of the Limitation Act, prayer has been made on behalf of the applicant/appellant for bringing on record the LR's of

deceased respondent No.5, Hardam Singh, whose LRs have been already ordered to be brought on record vide order dated 22.6.2021 passed by this Court in CMP No. 8740 of 2020. Since, the LRs of deceased respondent No.5 stand impleaded, present applications have rendered infructuous and accordingly same are disposed of.

CMP(M) No.1228 & 1229 of 2019

By way of instant applications filed under Order 22 Rule 4 & 9 read with Section 151 CPC and Section 5 of the Limitation Act, prayer has been made on behalf of the applicant/appellant for bringing on record the LRs of deceased respondent No.21, Hoshiyar Singh, whose LRs have been already ordered to be brought on record vide order dated 22.6.2021 passed by this Court in CMP No. 8741 of 2020. Since LRs of deceased respondent No.21 stand impleaded, the present applications have rendered infructuous and accordingly same are disposed of.

CMP No.3539 of 2019

Reply, if any, be filed within a period of two weeks.

List thereafter.

**(Sandeep Sharma),
Judge**

June 22, 2021
(shankar)