

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR**

S.B. Civil First Appeal No. 102/2005

Tarachand

----Appellant

Versus

Chunnilal And Anr

----Respondent

For Appellant(s) : Mr. Arpit Bhoot.

For Respondent(s) : Mr. Sandeep Saruparia.
Mr. Salil Trivedi.

HON'BLE MR. JUSTICE ARUN BHANSALI

Order

23/07/2020

The matter comes up on application (IA No. 1135/2015) filed by the appellant under Order XXII, Rule 4 CPC for bringing on record the legal representatives of the deceased-respondent No.1 Chunni Lal.

The application has been contested by Natwar Lal on the strength of a Will dated 19.03.2013 and a submission has been made that the decision as to the legal representative of the deceased be decided in terms of Order XXII, Rule 5 CPC.

Learned counsel appearing for the proposed legal representatives other than Natwar Lal, opposed the submissions made on behalf of Natwar Lal, inter alia, indicating that they are disputing the validity of the Will, FIR has been lodged, regarding which, proceedings are pending at Bombay, Natwar Lal filed application under Section 276 of the Indian Succession Act, 1925, which has been withdrawn and, therefore, the claim based on the Will, cannot be accepted.

In view of the above fact situation, wherein out of the five proposed legal representatives, four are contesting the right of 5th proposed legal representative i.e. Natwar Lal, who in turn is claiming right based on the Will, which aspect cannot be adjudicated/got adjudicated under provisions of Order XXII, Rule 5 CPC in terms of judgment of Hon'ble Supreme Court in the case of *Suresh Kumar Bansal v. Krishna Bansal & Anr.*: (2010) 2 SCC 162 followed by this Court in *LRs of Shri Nand Lal v. Kamlesh Ajmera & Ors.*: SBCW No. 5558/2014, decided on 10.04.2015.

The course open in the circumstances is to implead all the proposed legal representatives as party to the present litigation and let the legal representatives get their inter se dispute resolved by way of appropriate proceedings, which would ultimately decide the entitlement qua the fruits of the decree, if any, in the present case.

In view of the above, the application filed by the appellant under Order XXII, Rule 4 CPC is allowed. The proposed legal representatives as indicated in para-1 of the application are taken on record. The legal representatives would be free to get their inter se entitlement decided by way of appropriate proceedings.

Amended cause title be filed within a period of two weeks.

Office is directed to update the online record after filing the amended cause title.

(ARUN BHANSALI),J

19-PKS/-