



IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.3016 of 2024 (O&M)

Inderjeet Singh @ Inderjit Singh

. . . Petitioner

vs.

Smt. Kashmiri Yadav and others

. . . . Respondents

* * * *

Reserved on: July 27, 2026

Pronounced on: July 30, 2026

Pronounced fully/operative part : Fully

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CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By:- Mr. Kunal Dawar, Sr. Advocate with
Mr. Akash Vashisth, Mr. Saurav Bajaj,
Mr. Prashant Vir Gupta and
Mr. Akinchan Aggarwal, Advocates for the petitioner.

Mr. Virat Rana and Mr. Chetan Anand, Advocates
for respondent No.1.

Mr. Aayush Arora and Mr. Tarun Seth, Advocates
for respondent Nos.3 and 4.

DEEPAK GUPTA, J.

Petitioner was initially impleaded as defendant No.2 in Civil Suit No. CS-618 of 2019 titled "*Smt. Kashmiri Yadav v. Balbir Singh and others*", pending before the learned Civil Judge (Junior Division), Rewari. Though he was subsequently given up by the plaintiff, his application under Order I Rule 10 read with Section 151 CPC seeking impleadment as a defendant has been dismissed by order dated 04.04.2024 (Annexure P-21), which is under challenge in the present revision petition.

2. A perusal of the record reveals that respondent No.1-plaintiff instituted the suit against Balbir Singh (*defendant No.1*) seeking a decree of

permanent injunction on the basis of an agreement to sell dated 01.10.2018, alleging that despite the subsistence of the said agreement, defendant No.1 intended to alienate the suit property in favour of a third party. A decree restraining the defendants from alienating or changing the nature of the suit property was accordingly sought.

3. The present petitioner, Inderjeet Singh, being the son of defendant No.1 and an attesting witness to the agreement to sell, was impleaded as defendant No.2. He was proceeded against ex parte on 29.05.2019 (Annexure P-2). On 30.05.2019 (Annexure P-3), the trial Court granted an ad interim injunction restraining the defendants from alienating the suit property.

4. During the pendency of the suit, the plaintiff moved an application under Order VI Rule 17 CPC on 30.09.2019 (Annexure P-4) seeking conversion of the suit for permanent injunction into one for specific performance of the agreement to sell. Before the said application could be decided, defendant No.1 executed a transfer deed dated 09.10.2020 (*Annexure P-6*) in favour of his grandchildren, namely Himanshu and Sakshi, children of the present petitioner, transferring agricultural land measuring 51 kanals 13.64 marlas, which included the suit property.

5. The record further shows that disputes had arisen within the family. Smt. Sushma Dhankhar, wife of the petitioner and mother of Himanshu and Sakshi, instituted proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 before the competent Court at Saket, New Delhi against the petitioner as well as defendant No.1. Subsequently, Balbir Singh himself instituted proceedings under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the Sub Divisional Magistrate, Rewari, challenging the aforesaid transfer deed dated 09.10.2020 by alleging that his grandchildren had obtained his thumb impressions on blank papers on the pretext of taking him for medical treatment at Dharuhera and had fraudulently got the transfer deed executed.

6. Thereafter, Balbir Singh executed a registered Will No.2771 dated 08.03.2021 in favour of his sons, namely the present petitioner and Parmod Kumar. Defendant No.1 also filed a reply opposing the plaintiff's application for amendment on the ground that conversion of the suit into one for specific performance would alter its nature. However, before the amendment application could be decided, Balbir Singh expired on 16.10.2021.

7. Consequent upon his death, the plaintiff moved an application dated 16.11.2021 (*Annexure P-10*) for bringing on record the legal representatives of deceased Balbir Singh, including the present petitioner. The application remained pending.

8. While the said application was still pending, significant developments took place on 06.07.2022. The plaintiff moved an application seeking preponement of the case for recording a compromise. On the same day, Himanshu and Sakshi filed an application under Order I Rule 10 CPC claiming impleadment on the strength of the transfer deed No.856 dated 09.10.2020. Since the plaintiff expressed no objection, they were impleaded as defendants - respondent Nos 3 & 4. Simultaneously, the plaintiff made a statement giving up the present petitioner as defendant No.2 and also sought withdrawal of the application for bringing on record the legal representatives of deceased defendant No.1. Respondent Nos.3 and 4 also conveyed their no objection to the plaintiff's pending application for amendment of the plaint seeking conversion of the suit into one for specific performance. A compromise deed dated 06.07.2022 (*Annexure P-14*) was also placed on record.

9. On 25.07.2022, counsel appeared on behalf of the present petitioner. Thereafter, on 09.08.2022 (*Annexure P-18*), the trial Court dismissed the application for substitution of the legal representatives of deceased Balbir Singh as not pressed, on the basis of the plaintiff's statement. Defendant No.2, namely the present petitioner, also stood given up.

10. Subsequently, on 06.09.2022, the petitioner filed an application under Order I Rule 10 CPC seeking his impleadment in the suit. He asserted that by virtue of the registered Will dated 08.03.2021 executed by deceased Balbir Singh, he had succeeded to the estate of the deceased and had thus stepped into his shoes. He further pleaded that the transfer deed dated 09.10.2020 in favour of respondent Nos.3 and 4 was itself fraudulent and under challenge, and therefore, he was a necessary and proper party to the proceedings. The application having been contested, the trial Court dismissed the same by the impugned order dated 04.04.2024, primarily relying upon the judgment of the Supreme Court in ***Kasturi v. Iyyamperumal and others, 2005(2) RCR (Civil) 691***, holding that questions relating to title cannot be adjudicated in a suit for specific performance.

11. Assailing the impugned order, learned senior counsel appearing for the petitioner submits that although a plaintiff, being *dominus litis*, cannot ordinarily be compelled to proceed against a person whom he chooses to give up, nevertheless, once the suit stood converted into one for specific performance and the original vendor had expired, a decree for specific performance could not legally be passed without impleading the legal representatives of the deceased vendor. It is argued that the trial Court has misapplied the ratio of ***Kasturi (supra)***, wherein the Supreme Court itself recognised that necessary parties to a suit for specific performance include the parties to the contract, or if any of them has died, his legal representatives, besides a subsequent transferee of the contracted property. Since the petitioner claims as one of the legal representatives of deceased Balbir Singh under the registered Will dated 08.03.2021, he is a necessary party to the proceedings. According to the petitioner, respondent Nos.3 and 4 may claim to be transferees under the transfer deed dated 09.10.2020, but they cannot substitute the legal representatives of the deceased vendor. In support of the submissions, reliance has been placed upon ***Chhotalal Hariram and another v. Dilip Kumar Chatterjee and others, AIR 1976 Calcutta 337; Nirav Deepak Modi v. Najoo Bhiwandiwalla, 2014(71) RCR (Civil) 374; Smt. Manni Devi v. Ramayan Singh, 1984 SCC OnLine Pat 143;***

Bhuneshwar v. Gamman Das, AIR 2021 Chhattisgarh 86; and Pathiputtur Gayathri v. Vandela Ramana Reddy, 2025 AIR CC 1412.

12. *Per contra*, learned counsel appearing for respondent No.1 as well as respondent Nos.3 and 4 supports the impugned order by contending that a person asserting an independent title over the suit property is neither a necessary nor a proper party in a suit for specific performance unless he is a party to the agreement to sell. Reliance is placed upon ***Kuldeep Singh v. Ashish Kumar and others, CR-2380-2026, decided on 13.03.2026.*** It is further argued that the plaintiff, being *dominus litis*, cannot be compelled to implead a party against his wishes. Reliance in this regard is placed upon ***NAK Engineering Company Pvt. Ltd. v. Tarun Keshrichand Shah and others, SLP (C) Nos.6024-6025 of 2022, decided on 05.01.2026.***

13. I have heard learned counsel for the parties at length and have gone through the paper-book with their able assistance.

14. The short question, which arises for consideration is whether the petitioner, who admittedly is one of the legal heirs of deceased Balbir Singh, the executant of the agreement to sell dated 01.10.2018, can be denied impleadment merely because the plaintiff chose to give him up after the death of the original defendant and instead proceeded only against respondent Nos.3 and 4, who claim rights under an earlier transfer deed.

15. Order I Rule 10(2) CPC confers wide discretionary powers upon the Court to add any person as a party, whose presence before the Court is necessary or proper for effectively and completely adjudicating upon all the questions involved in the suit. The provision is intended to ensure that the litigation is concluded in the presence of all persons, whose participation is essential for passing an effective and executable decree and to avoid multiplicity of proceedings.

16. It is undoubtedly true that the plaintiff is the *dominus litis* and ordinarily cannot be compelled to sue a person against whom he does not seek any relief. However, the said principle is not absolute. Once the Court finds that the absence of a person would render the adjudication incomplete

or the decree ineffective or in-executable, the Court is empowered, and indeed obliged, to exercise the jurisdiction vested under Order I Rule 10(2) CPC. This principle now stands authoritatively explained by the Hon'ble Supreme Court in ***Mumbai International Airport Private Limited v. Regency Convention Centre and Hotels Private Limited, (2010) 7 SCC 417***, wherein it was held that although the plaintiff is *dominus litis*, the Court possesses ample jurisdiction to implead a necessary or proper party, if its presence is required for complete and effective adjudication of the controversy.

17. The learned trial Court has dismissed the application primarily relying upon the judgment of the Hon'ble Supreme Court in ***Kasturi v. Iyyamperumal and others, 2005(2) RCR (Civil) 691***. In the considered opinion of this Court, the ratio of the said judgment has not been appreciated in its correct perspective.

18. In ***Kasturi (supra)***, the Hon'ble Supreme Court was dealing with a claim raised by strangers asserting an independent title adverse to both the vendor and the vendee under the agreement to sell. It was in that context held that such strangers cannot insist upon their impleadment, as the scope of a suit for specific performance cannot ordinarily be enlarged into a title dispute. Simultaneously, however, the Hon'ble Supreme Court categorically observed that the necessary parties to a suit for specific performance are the parties to the contract and, if any of them has died, their legal representatives, besides a subsequent purchaser of the contracted property. Thus, the judgment itself recognizes that after the death of a contracting party, his estate has necessarily to be represented before the Court.

19. The present case stands on an entirely different footing. The petitioner is admittedly the son of deceased Balbir Singh, who was the sole executant of the agreement to sell sought to be specifically enforced. Initially, the plaintiff himself filed an application under Order XXII CPC for bringing on record all the legal representatives of the deceased, including the petitioner. However, after respondent Nos.3 and 4 sought impleadment on the basis of the transfer deed dated 09.10.2020 and expressed no objection to the amendment of the plaint and the compromise proposed by the plaintiff, the

application for substitution of legal representatives was withdrawn and the petitioner was given up.

20. Such withdrawal of the application by itself cannot have the legal consequence of dispensing with the representation of the estate of the deceased vendor. A decree for specific performance is a decree directing enforcement of a contractual obligation against the estate of the executant of the agreement. If the executant dies during the pendency of the proceedings, the decree can bind only those who legally represent his estate. Therefore, irrespective of the plaintiff's preference, the estate of the deceased vendor must necessarily remain represented before the Court.

21. Learned counsel appearing for respondent Nos.1, 3 and 4 argued that the petitioner is claiming an independent title on the basis of a Will and, therefore, falls within the category of a stranger as contemplated in *Kasturi (supra)*. This submission cannot be accepted.

22. The petitioner is not a complete stranger to the agreement. He was originally impleaded as defendant No.2, being an attesting witness to the agreement to sell. More importantly, he admittedly is one of the sons of deceased Balbir Singh and, therefore, one of his legal representatives within the meaning of Section 2(11) CPC. The fact that he additionally relies upon a registered Will dated 08.03.2021 executed by the deceased in his favour does not denude him of his status as a legal representative. Whether the Will ultimately confers exclusive rights upon him or whether the transfer deed dated 09.10.2020 creates superior rights in favour of respondent Nos.3 and 4 are questions, which do not arise for determination while deciding an application under Order I Rule 10 CPC.

23. At this stage, it is also apposite to notice that the expression "*legal representative*" occurring in Section 2(11) CPC is of wide amplitude. It is not confined merely to the heirs, who ultimately succeed to the estate of the deceased, but includes every person who, in law, represents the estate of the deceased. The Hon'ble Supreme Court has consistently held that the expression deserves liberal construction, the object being to ensure that the

estate of the deceased is adequately represented in judicial proceedings and that any decree ultimately passed binds the estate represented before the Court. Therefore, even if rival claims exist inter se regarding succession or the validity of a testamentary disposition, such disputes do not denude a person of his status as a legal representative for the purpose of being impleaded in pending proceedings. Thus, for the purposes of Order I Rule 10 CPC, the Court is primarily concerned with whether the estate of the deceased vendor is represented before it and not with finally adjudicating the competing claims of succession

24. In ***Sumtibai and others v. Paras Finance Co., (2007) 10 SCC 82***, the Hon'ble Supreme Court held that where a person claims a semblance of title and his presence is necessary for complete adjudication, the Court ought to adopt a liberal approach while considering impleadment, leaving the rival claims to be adjudicated during trial. Likewise, in ***Thomson Press (India) Limited v. Nanak Builders and Investors Private Limited, (2013) 5 SCC 397***, the Hon'ble Supreme Court recognized that where a person has acquired an interest in the subject matter of the suit, his presence may become necessary for effective adjudication and to avoid multiplicity of litigation. These decisions do not dilute ***Kasturi's*** ratio; rather, they explain the circumstances in which impleadment is warranted notwithstanding the plaintiff's objection.

25. The judgment relied upon by learned counsel for respondent Nos.1, 3 and 4 in ***NAK Engineering Company Private Limited v. Tarun Keshrichand Shah and others, decided on 05.01.2026***, also reiterates the settled principle that the plaintiff, being *dominus litis*, ordinarily cannot be compelled to litigate against persons claiming independent title. However, the said judgment does not lay down that legal representatives of a deceased contracting party can be excluded from a suit for specific performance. Rather, the distinction between a stranger asserting an independent title and a person whose presence is indispensable for complete adjudication continues to hold the field.

26. Equally important is the position of respondent Nos.3 and 4. They do not claim to represent the estate of deceased Balbir Singh as his

legal representatives. Their claim is founded solely upon the transfer deed dated 09.10.2020 allegedly executed during the lifetime of Balbir Singh. A subsequent transferee and a legal representative occupy distinct legal fields. The presence of one cannot eliminate the necessity of the other. Therefore, merely because respondent Nos.3 and 4 have been impleaded, it cannot be said that the estate of deceased Balbir Singh stands adequately represented.

27. This Court is also unable to overlook the peculiar sequence of events. The plaintiff initially sought substitution of all the legal representatives of deceased Balbir Singh. Subsequently, after respondent Nos.3 and 4 sought impleadment and a compromise was placed on record, the application for substitution was withdrawn and the petitioner alone was given up. Whether such compromise ultimately affects the rights of the petitioner is not a matter for consideration at this stage. Nevertheless, these circumstances reinforce the necessity of ensuring that every person who prima facie represents the estate of the deceased vendor is afforded an opportunity of being heard before a decree for specific performance is passed.

28. The trial Court, therefore, committed a jurisdictional error in treating the petitioner as a stranger claiming an independent title without first examining his admitted status as one of the legal representatives of the deceased executant of the agreement to sell. The impugned order thus suffers from patent illegality and material irregularity in exercise of jurisdiction warranting interference under Article 227 of the Constitution of India.

29. Consequently, the present revision petition is allowed. The impugned order dated 04.04.2024 (Annexure P-21) passed by the learned Civil Judge (Junior Division), Rewari is set aside.

30. The application filed by the petitioner under Order I Rule 10 CPC is allowed. The petitioner shall be impleaded as a defendant in the suit in his capacity as one of the legal representatives of deceased Balbir Singh.

31. It is, however, clarified that this Court has expressed no opinion on the validity or otherwise of the registered Will dated 08.03.2021, the legality of the transfer deed dated 09.10.2020, the rival claims of succession or title between the petitioner and respondent Nos.3 and 4, or the merits of the suit for specific performance. All such questions are expressly left open to be adjudicated by the trial Court independently on the basis of the pleadings and evidence led by the parties.

32. The learned trial Court shall thereafter proceed with the suit expeditiously and decide the same strictly in accordance with law, uninfluenced by any observation made herein except to the extent necessary for deciding the present revision.

July 30, 2026
Sarita

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes

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