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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-9521-2025

Date of decision: 21.05.2026

Poonam @ Indira

...Petitioner

Versus

Prahlad Sharma and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anurag Mor, Advocate, and
Mr. Nitin Verma, Advocate and
Mr. Shubham Kumar, Advocate for the petitioner.

Mr. Arav Gupta, Advocate, and
Mr. Yuvraj Singh Sharma, Advocate and
Ms. Ashmeet Kaur Shah, Advocate for respondents No.1 to 9.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 03.10.2024 (Annexure P-3) passed in Civil Suit No.2055 of 2015 by the Civil Judge (Senior Division), Faridabad, whereby the trial Court has dismissed the application filed by the petitioner under Order 22 Rule 3 of CPC for substitution of legal heirs of deceased plaintiff No.1.

2. A perusal of the impugned order would show that the application filed by the petitioner to be impleaded under Order 22 Rule 3 of Code of Civil Procedure as legal representatives of the deceased-plaintiff No.1 Smt. Asharfi Devi, was rejected by the trial Court on the ground that the suit had been filed for seeking relief with respect to 'Janhit Seva Charitable Trust' and that plaintiff No.1 had claimed herself to be the whole



time Trustee in the said Trust and had expired on 07.08.2019 and since the suit had been filed by plaintiff No.1, being Trustee in the said Trust so her interest came to an end on her death and her legal heirs have no legal right to continue the present suit on her behalf with respect to her interest in the said Trust. It was observed that it was settled proposition of law that the interest of a Trustee does not devolve upon his legal heirs, rather, his interest in the Trust devolves only upon the surviving Trustees and that it was not the case of the petitioner herein/applicant that the petitioner herein/applicant was appointed or nominated as new Trustee of the Trust. It was observed that, in case, the said plaintiff No.1 had filed a suit in her individual capacity and not as a Trustee, then, the petitioner could have been treated as a legal representative. It is the said order which has been challenged before this Court by the petitioner. It would be relevant to mention that in the said suit, plaintiff No.2 is Mahinder Sharma who is son of plaintiff No.1-Ashrafi Devi and is also a Trustee in the Trust and the said plaintiff No.2 is pursuing the said case.

3. Learned counsel for the petitioner has submitted that the petitioner being the daughter should be impleaded as legal representative of plaintiff No.1 so that the said legal representative can pursue the suit filed by the plaintiffs on behalf of plaintiff No.1. It is further submitted that no prejudice would be caused to the defendants/respondents, in case, the daughter of plaintiff No.1 is permitted to pursue the case on behalf of plaintiff No.1. It is further submitted that since the petitioner does not have any adverse interest against plaintiff No.1, thus, it would be in the interests of justice to permit the petitioner to pursue the said suit on behalf of plaintiff



No.1.

4. Learned counsel for the respondents, on the other hand, has submitted that a perusal of the plaint would show that the suit was filed by the plaintiffs including plaintiff No.1-Asharfi Devi, not in the individual capacity but on account of being a Trustee of 'Janhit Seva Charitable Trust' and all the prayers made in the suit are also in relation to the Trust and some of the prayers which plaintiff No.1 has made are infructuous and specific prayers made by plaintiff No.2 with respect to his removal are being pursued by plaintiff No.2. It is submitted that it is a matter of settled law that when a suit is filed as a Trustee or in representative capacity, it is not the legal representative of the person, who has filed the suit, who has the right to pursue the case but it is the surviving Trustees who have the right to pursue the case. In support of his arguments, learned counsel for the respondents has relied upon the judgment passed by the Bombay High Court in the case titled as **Sitabai Ramchandra Jaltare and others Vs. Masjid Nurun Mohalla Jingerwadi**, reported as **AIR 1979 Bom 109**.

5. This Court has heard learned counsel for the parties and has perused the paper book and is of the opinion that the present petition is meritless and deserves to be dismissed for the reasons stated hereinafter.

6. Although, the plaint of the suit has not been annexed along with the present revision petition but has been handed over to the Court during the course of arguments which is taken on record and marked as Mark 'A'. A perusal of the plaint would show that the original plaintiff no.1 in the said suit was Asharfi Devi and original plaintiff No.2 is Mahinder Sharma, who is the son of Asharfi Devi and is pursuing his suit. The defendants in the



present suit include defendant No.1 who is also the son of Asharfi Devi-plaintiff No.1. The suit had been filed for declaration, permanent and mandatory injunction on the pleadings that there were misdeeds happening in various Trusts and that Shambhu Dayal Shastri, who was the husband of plaintiff No.1 and father of plaintiff No.2 and defendant No.1 was the person behind the progress of 'Janhit Seva Charitable Trust' and had also developed four Trusts which included the abovesaid Trust. It was further the case of the plaintiffs in the plaint that defendant No.1/respondent No.1-Prahlad Sharma had taken over all the Trusts and declared himself as a Guru, after the demise of Shambhu Dayal Shastri.

7. The details of various Trusts were given in the plaint and it was also averred that plaintiff No.1 was appointed as the Patron of the Trust for life and plaintiff No.2 was also appointed as Executive Trustee along with defendant No.1. The object of the Trust was given in para 11 of the plaint. Several prayers were made in the plaint including the prayer for permanent injunction restraining the defendants from taking any decision affecting the aim and the objects of the Trust without the consent of the plaintiffs. Declaration was also sought with respect to order dated 18.08.2015 vide which plaintiff No.2 was stated to have been illegally removed. The relief of mandatory injunction was also sought against the defendants restraining them from taking any decision in the absence of the plaintiffs. Other prayers were also made. From a perusal of the said plaint, it could not be disputed that the suit was filed by plaintiff No.1 as a Trustee and not in her individual capacity.

8. The Bombay High Court in the case of *Sitabai Ramchandra*



Jaltare and others, (Supra), had, after relying upon several judgments, observed that in case the suit is not brought in personal capacity but in a representative capacity or as a Trustee and in the said situation, the said person who filed the suit dies, his own legal representatives would not automatically become the Trustees and would not be legal representative within the meaning of Section 2 clause 11 of CPC and only those Trustees who are elected or appointed under the Scheme of Trust and have stepped into person's shoes, can continue the suit. It was observed that the new Trustee would get his right not by virtue of death of the previous Trustee but because of him being elected or appointed as a Trustee under the scheme of the Trust, and thus, the suit filed by the Trustee, can be continued by another Trustee and not by his legal representatives and that such case would be covered under Order 22 Rule 10 of CPC and not under Order 22 Rule 3 of CPC. It was observed that even if as per the title of the case, the suit was in the individual name of the Trustee, it is the recitals in the plaint which are to be considered and if from the recitals of the plaint, it comes out that the suit has been filed as a Trustee or in a representative capacity then, the own legal heirs cannot pursue the suit on behalf of the deceased Trustee and it is only the surviving/appointed/elected Trustee who can pursue the case. The law laid down in the abovesaid judgment would apply on all fours in the present case. At any rate, plaintiff No.2 is son of plaintiff No.1 and he is also a Trustee in the Trust in question and is pursuing the suit

9. The Hon'ble Supreme Court in the case of *"Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil"*, reported as *(2010) 8 Supreme Court Cases 329*, had observed that the High Courts cannot, at the



drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

10. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order dated 03.10.2024 is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

11. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

21.05.2026

Pawan

**Whether speaking/reasoned:-
Whether reportable:-**

**(VIKAS BAHL)
JUDGE**

**Yes/No
Yes/No**