

case must depend to a great extent on the facts and circumstances of that case, the framework of the law under which the enquiry is held and the constitution of the Tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a Court that some principle of natural justice had been contravened the Court has to decide whether the observance of that rule was necessary for a just decision on the facts of the case."

Thus, taking into consideration the said observations and the law laid down by the Supreme Court, on the facts and circumstances of the present case, since the matter was quite sensitive, once the petitioner was given notice and allowed to use the aircraft, the mischief would have been there and the very purpose of the cancellation of the licence would have been frustrated. Thus, it could not be successfully argued on behalf of the petitioner that the petitioner was entitled to an opportunity of hearing before his licence could be cancelled. The licence has been cancelled on the basis of secret report against the petitioner as contained in the record file produced in this Court.

(8) Consequently, this writ petition fails and is dismissed with no order as to costs.

P.C.G.

Before J. V. Gupta, J.

HOLA RAM, SON OF GIRDHARI LAL,—*Plaintiff/Petitioner.*

*versus*

KEWAL KRISHAN AND OTHERS,—*Defendants/Respondents.*

*Civil Revision No. 322 of 1988.*

July 28, 1989.

*Civil Procedure Code Section 115—Plaintiffs claiming to be tenant in equal shares—Death of one tenant—Claim of the other tenant on whole of land—Such claim—Legality of.*

*Held, that the plaintiffs claimed to be the tenants on the suit land in equal shares, i.e., one half each. If once the shares are determined then on the death of one tenant the other tenant would not claim to be the tenant on the whole land.* Para 4)

Hola Ram, son of Girdhari Lal v. Kewal Krishan and others  
(J. V. Gupta, J.)

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*Petition under Section 44 Punjab Court of Act and S. 115 C.P.C. for revision of the Court of Shri Dharamvir Singh, Sub Judge, 1st Class, Gohana, dated the 14th October, 1987 rejecting the application filed on behalf of the plaintiff for amendment of the plaint.*

**CLAIM:** *Suit for possession by way of pre-emption.*

**CLAIM IN REVISION:** *For reversal of the order of the lower Court.*

Y. K. Sharma, Advocate, for the Petitioner.

Bhoop Singh, Advocate, for the Respondents.

#### JUDGMENT

*J. V. Gupta, J.*

(1) This petition is directed against the order of the trial Court dated 14th October, 1987, whereby the application filed on behalf of the plaintiff for amendment of the plaint was rejected. The plaintiff-petitioner Hola Ram along with one Smt. Ram Piari filed a suit for possession by way of pre-emption claiming themselves to be the tenants on the suit land in equal shares. During pendency of that suit Smt. Ram Piari plaintiff died. The application filed by her legal representatives to be brought on the record was dismissed by the trial Court by an order dated 22nd December, 1984. Revision petition against the said order was also dismissed by this Court reported as *Karam Chand and another v. Kewal Krishan and others* (1).

(2) After having failed, the plaintiff Hola Ram then moved an application for amendment of the plaint claiming therein that he is entitled to the total land being tenant thereon after the death of Smt. Ram Piari. That application was opposed by the defendants and the trial Court dismissed the same with the observations that the proposed amendment was not necessary or proper in order to determine the real controversy or in the suit. The trial Court also found that under the circumstances when it was admitted on behalf of the plaintiff that the application for impleading the legal representatives of the deceased plaintiff Smt. Piari and already been dismissed and that order has achieved finality, the present application was not maintainable.

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(1) 1985 P.L.J. 581.

(3) The learned counsel for the petitioner submitted that since the petitioner was a tenant on the suit land in equal shares with Smt. Ram Piari, he would be admitted to be a tenant on every parcel of the land and that being so he is entitled to a decree of the total land after the death of Smt. Ram Piari. In support of this contention, he referred to *Partap Singh and another v. Kalu Ram* (1).

(4) After hearing the learned counsel for the parties, I do not find any merit in this petition. Admittedly, in the plaint originally filed the plaintiffs claimed to be the tenants on the suit land in equal shares, i.e. one half each. If once the shares are determined then on the death of one tenant the other tenant would not claim to be the tenant on the whole land. As such, the judgment relied upon has no applicability to the facts and circumstances of the present case, as therein the shares of the tenants were not determined. In the circumstances, the petition fails and is dismissed with costs.

(5) Since further proceedings were stayed at the time of motion hearing, parties are directed to appear before the trial Court on 10th August, 1989.

(6) In the order to expedite the hearing of the case, the parties shall produce evidence at their own responsibility and for that purpose one opportunity will be given to each party.

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P.C.G.

Before J. V. Gupta, J.

SMT. ANITA JERATH, WD/O LATE SHRI NIRMAL PARKASH  
JERATH, AND ANR.,—*Petitioners.*

*versus*

MRS. PUSHPAWATI JERATH, WD/O LATE SHRI OM PARKASH  
JERATH AND ORS.,—*Respondents.*

Civil Revision No. 904 of 1988.

*Civil Procedure Code (V of 1908)—Section 35-B—Indian Succession Act, 1925—Section 372—Petition for grant of succession certificate—Cost imposed for adjournment during trial of such petition—Failure to pay cost—Dismissal of such petition under section 35-B—Applicability of Section 35-B to such petitions.*

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(2) 1969 Current Law Journal 829.