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**COURT NOTICE  
(U/o 5 Rule 20 CPC)**

**IN THE COURT OF Dr. Ram Niwas Bharati  
District and Sessions Judge Sirsa**

**Next Date, Purpose of case, Orders and Judgments as well as other  
case information is available on <http://ecourts.gov.in>**

**MAHENDER KAUR**

**Vs.**

**GENERAL PUBLIC**

**CNR No. HRSI01-004496-2019**

**Next Date:- 03-04-2019**

**PUBLICATION ISSUED TO:**

**GENERAL PUBLIC**

**:-**

**SIRSA**

To,

The Manager  
Dainik Chetna News Paper  
Bhiwani, Haryana.

Whereas it has been proved to the satisfaction of the Court that the defendant(s)/respondent(s) above named cannot be served in the ordinary way of service. Hence, this proclamation **under order 5 Rule 20 CPC** is hereby issued against him/them and should appear personally or through their counsel on **03-04-2019 at 10:00 a.m.**

Take notice that, in default of his/their appearance on the day before mentioned, the above said case will be heard and determined in his/their absence according to law.

Given under my hand and the seal of the Court, this **02-03-2019**.



**D.S.**  
**District and Sessions Judge**

**Sirsa** *DS*

IN THE COURT OF DISTRICT JUDGE, SIRSA

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Civil Suit Date of Instt. Date of Dec. Date of appeal  
No.

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HRSI 02000799-2017	31-05-2017	16-01-2019	20-02-2019
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Value of the suit For court fee fee paid	Value of the appeal for court fee	Amount of court fee
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200/-	200/-	25/-
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- 1- Mahender Kaur aged about 60 years widow of Shri Malkeet Singh
- 2- Gagandeep Singh aged about 27 years son of Late Shri Malkeet Singh both residents of Village Patli Dabar, Ding Road, Sirsa, Tehsil and District Sirsa

--Plaintiffs

VERSUS

General Public

--Defendant

Appeal against the judgment and decree passed by the court of Shri Sachin Kumar Civil Judge (Junior Division), Sirsa on 16-01-2019 in the case bearing Civil Suit titled as "Mahender Kaur and another vs. General Public" vide which

CA-79  
21-02-19

the court has dismissed the suit filed by the plaintiffs/appellants for declaration.

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**CLAIM IN APPEAL**

For setting aside the impugned judgment and decree dated 16-01-2019 passed by the court of Shri Sachin Kumar Civil Judge, (Junior Division), Sirsa and for passing a decree in favour of the appellants-plaintiffs as prayed for in the plaint with costs throughout.

Sir,

The appellants/plaintiffs respectfully submit as under:-

- 1- That the appellants have filed a civil suit titled as "Mahendrer Kaur etc. Vs. General Public" seeking a relief of declaration to the effect that Malkeet Singh son of Shri Preetam Singh son of Shri Ujagar Singh resident of Village Patli Dabar District Sirsa has been died being not heard or seen by the plaintiffs, his family members, relatives as well as the villagers for the last more than 7 years and on the basis of Rapat bearing No.18 dated 03-07-2008 got registered in Police Station Ding District Sirsa and further for declaration to

the effect that the plaintiffs being the only legal heirs of Malkeet Singh are legally entitled to be declared as only entitled to take over all the rights whatsoever were available to Malkeet Singh as he was living on the earth and besides above as per law and the relevant provisions of Hindu Succession Act, the plaintiffs being the legal heirs of the said Malkeet Singh are also entitled to be declared as lawful owners in possession of the estates whatsoever if any existed and recorded in the name of dead person-Malkeet Singh.

- 2- That the judgment and decree dated 16-01-2019 passed by the court of Shri Sachin Kumar Civil Judge, Junior Division, Sirsa, whereby the Ld. Lower court had dismissed the suit of the plaintiffs is quite wrong, erroneous, without application of judicious mind, out of pleadings, against the principles of natural justice and equity and the same is liable to be reversed. Certified copy of the impugned judgment and decree is attached herewith for kind perusal of this Hon'ble court.
- 3- That the brief facts of the case are that Shri Malkeet Singh was the resident of Village Patli Dabar District Sirsa and was aged about

years. The plaintiff no.1 is the wife whereas the plaintiff no.2 is the only son of the said Malkeet Singh. The said Malkeet Singh was living with the plaintiffs at Village Patli Dabar District Sirsa. The said Malkeet Singh was not mentally fit and was not quite hale and healthy. However, the fact remains that Malkeet Singh has gone out of the house on 17-06-2008 and he has gone out of the home without explaining anything to the plaintiffs and the plaintiffs also taken it easy that he would come back of his own, as he was quite mature having the age of more than 48 years, hence the plaintiffs did not smell any kind of adverse thinking in his mind. Malkeet Singh has gone out of the home without the consent and telling anything to the plaintiffs and thereafter he did not turn back to the house, however, the plaintiffs after the lapse of very short hours, become worried about Malkeet Singh and they tried their best to search him out here and there. The plaintiffs also enquired about Malkeet Singh from the relatives and friend circle of Malkeet Singh and also conveyed about the absent and missing of Malkeet Singh to their other brotherhood and relatives and they

took rounds at the bus stand/stop of the nearby areas as well as at the Railway Station and other public places where the presence of Malkeet Singh can be expected. When all the personal efforts of the plaintiffs gone waste and fruitless and unable even find any clue, then the plaintiffs reported this matter to the concerned police station Ding on 29-08-2008 and also disclosed to the police about the physical status like height and body structure of Malkeet Singh and as such a Rapat No.18 dated 29-08-2008 has been lodged by the police of Police Station Ding in this regard but till today the whereabouts of Malkeet Singh are not known to anybody else and no clue about the living of Malkeet Singh is found to the plaintiffs from any side and hence the plaintiffs and other family members took said Malkeet Singh as a dead person, because the whereabouts of said Malkeet Singh are not known to the plaintiffs nor to any other public person or the relatives of the plaintiffs, hence as per law, said Malkeet Singh is liable to be declared as dead person. As Malkeet Singh was living with the plaintiffs and plaintiffs were taking care of him in all the manners and

he was completely dependant upon the plaintiffs and besides above, the plaintiffs being the natural heirs of Malkeet Singh now legally deceased, are entitled to be declared as only entitled to take over all the rights whatsoever were available to Malkeet Singh as he was living on the earth. Besides above as per law and the relevant provisions of Hindu Succession Act, the plaintiffs being the legal heirs of the said Malkeet Singh are entitled to be declared as lawful owners in possession of the estates whatsoever if any existed and recorded in the name of dead person- Malkeet Singh. The plaintiffs approached the revenue authorities and requested them to udate the revenue records in their names being the legal heirs of the said Malkit Singh by considering him to be dead person being not heard or seen for the last more than 7 years but the revenue authorities declined from incorporated the names of the plaintiffs in the revenue records without the orders of the Hon'ble court.

- 4- That notice regarding the present suit has been issued to the defendant but the defendant was proceeded against exparte vide order dated 08-08-2017.

- 5- That the learned lower court while deciding the suit of the plaintiff did not rely upon the rapat dated 29-09-2008. Further the evidence of the plaintiffs have not been taken into consideration by the learned lower court.
- 6- That the plaintiffs in their evidence proved their case by placing on record the required documents to prove their version.
- 7- That the Ld. Lower court has failed to understand the real matter in controversy between the parties and thus could not properly appreciate the evidence brought by the plaintiffs/appellants before the court. Without going into the circumstantial evidence, facts of the case and legal position, the Ld. Lower court dismissed the suit of the plaintiffs as a whole.
- 8- That the lower court has also not gone through the evidence produced by the plaintiffs to prove their case and has not appreciated the documentary evidence produced by them in support of their version. Rather excessive reliance is placed upon the oral evidence produced by the defendants. The case law authorities cited by the counsel for the plaintiffs were not relied upon by the court



whereas these were totally fit to the facts and circumstances of the present case.

- 9- That the Ld. Civil court committed great legal error in passing the impugned judgment and decree and did not apply its judicious mind on the subject matter, rather acted in an extremely haste and casual manner. Without going through the real controversy in the subject matter, the lower court had simply on the basis of surmises and conjectures dismissed the suit of the plaintiffs, hence the order is against the principles of natural justice and liable to be reversed.
- 10- That the facts narrated above and the grounds of appeal clearly show that the impugned judgment and decree dated 16-01-2019 is totally against facts and circumstances and is unlawful, without any justification and thus the same is liable to be set aside. The case of the plaintiffs/appellants was very strong and must be decreed in all its probabilities. It is crystal clear that the judgment and decree of the Ld. Lower court is without application of judicious mind and thus liable to be reversed.
- 11- That after deducting the days spent in obtaining the certified copy of the impugned

judgment and decree, the appeal is well within the period of limitation.

12- That requisite court fee stamps are hereby affixed with the appeal as per the valuation of the suit.

13- That the impugned judgment and decree dated 16-01-2019 was passed by the court of Shri Sachin Kumar Civil Judge, Junior Division Sirsa, this Hon'ble court being appellate authority has got jurisdiction to try and entertain the present appeal.

Hence, prayed that the impugned judgment and decree dated 16-01-2019 passed by the court of Shri Sachin Kumar Civil Judge, (Junior Division), Sirsa vide which the court has dismissed the suit filed by the plaintiffs/appellants may kindly be set aside and a decree may kindly be passed in favour of the plaintiffs/appellants as prayed for in the plaint, in the interest of justice.

Sirsa/Dt.21-02-2019

Submitted by

1- Mahender Kaur widow of Shri Malkeet Singh 2- Gagandeep Singh son of Late Shri Malkeet Singh both residents of Village Patli Dabar, Ding Road, Sirsa, Tehsil and District Sirsa

Pr. sented by Sh. *ved parkash Adv.*  
Pu: up in Peshi on *Today*  
Dated *21/2/2019*  
*Hemraj*  
Superintendent  
Gr.II (Judl.)

*Mohinder Kaur*  
*Gagandeep Singh*

*[Handwritten signature]*

THROUGH VED PARKASH ADVOCATE, SIRSA.

*R/sir,*  
*Court fee is correct and*  
*appeal is with in time*  
*Hemraj,*  
*25/2/19*