

IN THE COURT OF MUNSIF, BALLIA, BEGUSARAI

Title Suit No- 26/2017

Reg No. 26/2017

Date of Order 10.01.2023	<u>Smt.Duro Devi & OthersPlaintiff</u> Versus <u>Ibrahim & Others.....Defendants</u>	Remarks
	<p>This case is put for the order on the petition filed by the plaintiff under Order XXII, Rule-3 and under section-151 of C.P.C on dt.12.10.2022 to substitute the legal heirs of the Plaintiff No-2 namely Mahadev Sahni who died on dt.19.02.2020. Moreover, defendant filed rejoinder on dt.16.11.22 against the petition filed by the plaintiff dt.12.10.2022.</p> <p>Ld. Counsel for the plaintiff has submitted that the Plaintiff No-2 namely Mahadev Sahni died leaving behind his legal heirs. Moreover he submitted that the ends of justice and proper adjudication of this suit it is essential to substitute the legal heirs in his place. Further learned advocate argued that for the ends of justice it is quite essential to substitute legal heir so that the suit may not be prejudice to any of the party. Further Ld.Advocate prayed before court to expunge the name of Plaintiff No-2 namely Mahadev Sahni and substitute the name of his legal heirs in the interest of justice. Moreover he submitted that for the ends of justice and proper adjudication of this suit it is essential to substitute the legal heirs in his place so that the suit may not be prejudice to any of the party.</p> <p>Ld. Counsel for the defendant has submitted that the Plaintiff No-2 namely Mahadev Sahni died 2 years 9 months ago and plaintiff didn't took steps for substitution of legal heirs. Further Ld. Counsel for the defendant has submitted that P.w-2 namely Pramod Mahto while cross-examination stated that Plaintiff Mahadev Sahni had already deceased.</p> <p>Heard the Ld.counsel and perused the case record, this court find that due to death of Plaintiff No-2 namely Mahadev Sahni, s/o Late Minna Sahani plaintiff filed petition for substitute the name of legal heirs in place of Plaintiff No-2 namely Mahadev Sahni. Considering the factual matrix of this case, this court finds that right to sue the legal heirs of the Plaintiff No-2 namely Mahadev Sahni also survives and to prevent the multiplicity of the proceeding and to decide the real points of controversy between the parties, this court finds that legal heirs of the Plaintiff No-2 namely Mahadev Sahni is required to impleaded in this suit. In the result considering the aforesaid discussions, the court is of considered opinion that prayer of petitioner is</p>	

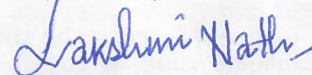
10.01.2023

liable to be accepted. It is necessary and in the interest of justice to allow substitution. Therefore, this court is inclined to allow the petition filed by the petitioner to substitute the legal heirs of the Plaintiff No-2 namely Mahadev Sahni. Hence name of Plaintiff No-2 namely Mahadev Sahni is expunged and Duro Devi wife of plaintiff no-2 namely Mahadev Sahni is already on record and remaining legal heirs namely 2(a). Pramod Sahani, S/o-Mahadev Sahni, 2(b). Subodh Sahni, S/o-Mahadev Sahni, 2(c). Prema Kumari, d/o-Mahadev Sahni is substituted as plaintiff.

Moreover this court finds that plaintiff no-2 namely Mahadev Sahni died on dt. 19.02.20 and no immediate steps taken by plaintiff for substitution of legal heirs and P.W-2 namely Pramod Mahto while cross-examination on dt. 31.08.22 admitted that Plaintiff Mahadev Sahni had already deceased. Therefore cost of Rs.800/- is imposed on Plaintiff payable to defendant.

Moreover, the office clerk is directed to make an effect to this order at instant. Hence, the petition filed by the petitioner is hereby disposed of without any cost. Put up for further proceeding on dt.

(Dictated)



Lakshmi Nath
Munsif

Ballia, Begusarai
10.01.2023