

15.07.2025

CS No. 10164/16
Jag Mohan Gupta vs. Girdhari Lal

Present: Sh. Ayush, Ld. Counsel for the plaintiff no. 2A.
Sh. Srivats Kaushal, Ld. Counsel for Lrs no. 1B(i),1D, 1E, 2A, 2B, 3B, 3C and 4A and 4B through VC.
Ms. Aashna Arora and Sh. Gurtej Pal Singh, Ld. Counsel for Lrs of defendant no. 1C(a) to 1C(d) through VC.
Sh. Mayank Bansal, Ld. Counsel for Lrs of defenant no. 11 alongwith Sh. Sanjay Jain.
Sh. S.S Jain, Ld. Counsel for the defendant no. 10 a/w defendant no. 10(d).

This is an application under Section 151 CPC vide which plaintiff no. 2A is seeking directions to effect service by way of affixation at various defendants/proposed defendants.

Perusal of the orders dated 29.01.2025, 14.02.2025, 21.02.2025 and 03.03.2025 besides publications affixation is also directed to be carried out at various places in the suit property.

Perusal of the aforesaid order also shows that given the extraordinary circumstances, besides the aforesaid steps, court notices have also been issued to the various parties.

In view of the steps taken where besides, issuance of court notice, affixation and publications having been carried out, the present application seeking directions to serve various defendants/proposed defendants through publication is rendered infructuous, accordingly, the same is dismissed.

This is an application filed by the plaintiff under Order 22 Rule 4 CPC read with Section 151 CPC to bring on record the Lrs of Late Sh. Virender Kumar Jain.

The present application has been filed by the plaintiff no . 2A stating that defendant no. 4 Sh. Virender Kumar Jain has expired and is survived by his two daughters and one son namely Poonam Jain, Shivani and Mr. Puneet Jain. However, the date of the demise of Sh. Virender Kumar Jain has not been mentioned anywhere in the said application.

Sh. Srivats Kaushal representing the two Lrs of Virender Kumar Jain submits that the said defendant expired on 28.03.2021. However, the application seeking the impleadment of the Lrs has been filed only on 17.12.2022.

The said application is supported by an application under Section 5 of the Limitation Act and as per plaintiff no. 2A, the delay arose since the counsel representing defendant no. 4 failed to disclose the date of the demise of Sh. Virender Kumar Jain including the names and addresses of the Lrs of the deceased defendant no. 4 and it was only after difficulty in effort, plaintiff no. 2A has been able to learn the details of the Lrs of the deceased defendant no. 4. The present application has been filed by the counsel for plaintiff no. 2A on 17.12.2022 and till date i.e. expiry of more than 2.5 years, any reply to the said application has been filed by the counsel representing two Lrs of the deceased Sh. Virender Kumar Jain and neither there has been a denial of the fact that in fact, the three Lrs sought to be impleaded are not in fact the Lrs of the deceased defendant no. 4.

Keeping in view the fact that since the present suit is a suit for partition and since in the present case, the right to sue survives upon the surviving Lrs of Sh. Virender Kumar Jain and since the plaintiff has been able to establish sufficient cause for not filing the present application seeking substitution of the Lrs since it was always a duty of the counsel to inform the court who had failed to inform the same and also the details of the Lrs of the deceased Sh. Virender Kumar Jain, the plaintiff has been able to establish sufficient cause for not preferring the present application within the stipulated period of time, both the applications under Order 22 Rule 5 CPC as well as Section 5 of the Limitation Act are allowed and the three Lrs of the deceased defendant no. 4 are taken on record.

This is an application also filed by plaintiff no. 2A seeking impleadment of the Lrs of defendant no. 1B i.e. Sh. Bipin Chand Jain who is one of the sons of Sh. Girdhari Lal Jain.

In the said application, it is stated that defendant no. 1B i.e. Sh. Bipin Chand Jain is survived by three Lrs i.e. Sh. Manu Jain (son), Alka Jain (daughter) and Smt. Divya Jain (Daughter).

Ld. Counsel Sh. Srivats Kaushal appearing on behalf of the aforesaid of one of the Lrs of the deceased Sh. Bipin Chand Jain submits that in fact Late Sh. Bipin Chand Jain has been survived by three Lrs as stated in the foregoing paras.

Keeping in view the fact the present suit is a suit for partition and also keeping in view that right to sue survives in favour of the three Lrs of the deceased Sh. Bipin Chand Jain and also in view of the fact that no objection has been raised for not impleading the three Lrs of Late Sh. Bipin Chand Jain, the present application stands allowed and the three Lrs of Late Sh. Bipin Chand Jain are taken on record.

Renotify the matter for arguments on the other pending applications on **19.07.2025 at 12:30 PM.**

Sachin Sood
DJ-01, Central,
THC, 15.07.2025