

CS no. 316/16

Mohd. Ilyas VS Noor Mohd.

01.03.2023

Present: Sh. Anurag Malik, Ld. Counsel for plaintiff along with LR of plaintiff in person.

Sh. Mohd. Sartaj, Ld. Counsel for defendant along with defendant in person.

Put up for orders at 4.00 PM.

(Kishor Kumar)
ADJ-04, East District,
Karkardooma Courts, Delhi
01.03.2023

(At 4.00 PM)

Present: None.

Vide order dated 17.08.2022, it has been observed by my Ld. Predecessor that plaintiff expired about one year ago and within the limitation period no application for impleading the LRs of deceased plaintiff has been moved. Therefore, the suit automatically stands abated.

On 31.08.2022, an application has been filed U/o 22 rule 3 CPC for impleading the LRs of deceased plaintiff along with an application U/Sec 5 of Limitation Act. Admittedly, the plaintiff had died on 13.06.2020 and the application for impleading the LRs has been filed on 31.08.2022. The limitation to file such application is 90 days from the date of death.

In the application U/Sec 5 of Limitation Act, it has been stated that applicant could not file application U/o 22 rule 3

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CPC as he was not having the knowledge of the present case and got to know about the same only on 16.08.2022 by previous counsel of the deceased plaintiff.

It is very well known fact that as on 13.06.2020, there was nationwide lock down on account of Covid-19 pandemic. By various orders of the Hon'ble Supreme Court, the period of lock down has been excluded from time to time.

Record reveals that since 22.06.2020 when the cases were being adjourned enbloc due to Covid-19, none had been appearing on behalf of the plaintiff repeatedly. On 05.04.2022, the Court had ordered for issuance of Court notice. On the Court notice issued to Ld counsel for plaintiff, it is reported that after the death of the plaintiff, they were not in contact with the family members of the deceased plaintiff. It was only on 17.08.2022 that Sh. Anurag Malik, Ld counsel for LR's of deceased plaintiff had appeared. Thereafter, the application for impleadment of the LR's of the plaintiff U/o 22 rule 3 CPC along with condonation of delay application U/Sec 5 of Limitation Act has been filed.

In view of the above discussions, I find that there are sufficient reasons for condonation of delay in filing the application U/o 22 rule 3 CPC. Therefore, the delay, if any, is hereby condoned. The application U/o 22 rule 3 CPC is allowed.

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Let amended memo of parties be filed and for further
proceedings on **11.05.2023**.

(Kishor Kumar)
ADJ-04, East District,
Karkardooma Courts, Delhi
01.03.2023