

***The case file received by way of transfer vide order no. 35/G-I/Gaz-IA/DHC/2023 dated 29.08.2023. It be checked and registered.***

Present : Sh. Himart, Ld. Counsel for the plaintiff.  
Sh. Praveen Sharma, Ld. Counsel for the LR of defendant no. 1.  
Sh. Jasvir Singh, Ld. Counsel for the defendant no. 2 along with defendant no. 2.

An application u/s 151 of CPC for modification in the application u/o XXII Rule 4 R/w Section 151 of CPC has been filed by the plaintiff. Copy of the same has been supplied to the defendant no. 3.

Ld. Counsel for the plaintiff prayed for setting aside the abatement of suit against defendant no.1 and for condonation of delay and for substituting of LR of defendant no. 1. He further submits that there has been no mala-fide on his part and he filed the initial application within 90 days when death of defendant no. 1 came to his knowledge.

Ld. Counsel Sh. Praveen Sharma submits that he has no objection on the above said prayers of plaintiff. At the same time, he requested for imposing sufficient cost on the plaintiff. He further submits that by giving no objection, he is not admitting the case of plaintiff in any way and he is doing so just prevent delaying the case.

Ld. Counsel for defendant no. 2 raised objections on the application of the plaintiff. He submits that if suit is treated as abated, it would get abated as whole and no cause of action survives in favour of plaintiff.

Ld. Counsel for the plaintiff submits that if abatement is not a set

aside, it would not abate the suit as whole.

Both the counsels submit that some time be given to clarify the position.

At this stage, Ld. Counsel for the plaintiff submits that he want to withdraw the application which has been filed by him today only as he intents to file new application in its place.

Put up on **13.12.2023**.

It is directed to counsel for the plaintiff to supply copy of application in advance to the counsel of defendants.

(Vikas Garg)  
ADJ-05/East/KKD  
Delhi/04.10.2023