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CS No. 2539/16

RAJNI KAKKAR @ MUNNA Vs. GURBACHAN SINGH
AND ORS.

10.07.2024

Present : Sh. Paramjeet Singh, Ld. Counsel for the plaintiff
alongwith plaintiff.
Sh. Himal Akhtar, Ld. Counsel for the defendants
no.1 and 2 and also for LR no.4/ Sh. Manjeet Singh
and LR no.6/ Ms. Jyoti of deceased defendant no.3
also proposed LR of defendant no.3/ Ms. Kiran Kaur
@ Mari.
None for other LRs of deceased defendant no.3.
Son of defendant no.1 in person.

Today, matter is fixed for order on application filed
on behalf of the plaintiff under Order XXII Rule 9 CPC r/w
Section 151 r/w Section 5 of Limitation Act for impleadment of
additional legal heir namely Ms. Kiran Kaur/ Mari of deceased
defendant no. 3.

The argument was already heard on the said
application.

It is stated on behalf of the plaintiff that plaintiff had
no knowledge about the additional LR/ Ms. Kiran Kaur @ Mari
of deceased defendant no.3 and therefore her name could not be
mentioned in the earlier application as one of the LRs of the
deceased defendant no. 3. It is further submitted that after supply
of the details of said LR by the defendants, the instant application
has been filed by the plaintiff. He further submits that vide order

dated 06.02.2024, this court set aside the abatement and other legal heirs of the deceased defendant no.3 were allowed to implead in place of deceased defendant no.3. He further submits that new fact about the additional legal heir of the said defendant has been brought to the notice of the plaintiff on 28.02.2024 and details of said LR were provided to the plaintiff on 14.03.2024. It is prayed that Ms. Kiran Kaur/ Mari be impleaded as one of the LR of deceased defendant no.3 in the present suit.

Ld. counsel for the plaintiff further submits that due to aforesaid reasons, application for impleadment of said LR could not be filed within stipulated period and thus suit against the said additional legal heir stands abated. He further submits that delay in filing the present application has occurred and reasons for delay was beyond control of the plaintiff. It is prayed that delay in filing present application for impleadment/ substitution of abovesaid additional legal heir may be condoned.

Reply to the said application has not been filed by the defendants. However, Ld. Counsel for the defendants and proposed LR Ms. Kiran Kaur @ Mari opposed the instant application submitting that the plaintiff and proposed LR are close relative and the plaintiff had knowledge about the said LR.

Submission heard and record perused.

It is seen that the defendant did not inform about the proposed LR Ms. Kiran Kaur @ Mari to the plaintiff at the time

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of providing details of the other LRs of the deceased defendant no. 3. Further, other LRs of the deceased defendant no. 3 has already been impleaded in the present suit. Therefore, there is sufficient reason for the delay in moving the instant application as well as not taking steps for impleadment of the proposed LR.

In view of this, **the delay in filing of the instant application is condoned** and abatement of the present suit qua the LR Ms. Kiran Kaur @ Mari is set aside and **LR Ms. Kiran Kaur @ Mari is impleaded as defendant in the present suit**. The instant application accordingly allowed.

Plaintiff is directed to file amended memo of parties with advance copy to the Ld. Counsel for defendants.

Put up for DE on **31.07.2024**.

(SOMITRA KUMAR)
DJ-06, EAST/ KKD COURTS
DELHI/10.07.2024 ^(R)