

CS NO. 3224/16
KAUSHALYA DEVI AND ORS.
VS.
SARMESH KUMAR AND ORS.

28.01.2021

Present : Sh. Rajesh Sharma, ld. counsel for plaintiffs.
Sh. Trilok Chand, ld. counsel alongwith defendant
No.1.

Sh. Sharma, states that he has already moved an application U/o 22 rule 3 CPC on 18.11.2019, intimating tha the plaintiff No.5, Sh. Rajiv Kumar had expired on 18.08.2019, unmarried and leaving behind no Class-I Legal Heir, except the plaintiff No.1, Smt. Kaushalya Devi, who is his mother and, therefore, only the correct memo of the parties has to be filed. Even, the application has been accompanied with another application U/s 5 of the Limitation Act for condonation of delay atleast one day. Since the application is formal in nature, therefore, it stands allowed. Correct memo of the parties, deleting the name of the plaintiff No.5 from the array of the suit, be placed on the record, by the plaintiff immediately with copy to other side.

It is further stated jointly by the ld. counsels present that this is a suit for partition and another suit, filed for recovery of possession of portion of the same property, involved in both the suits, is pending before the Ld. Court of Sh. M.P.Singh, ADJ-02, East, KKD Courts, Delhi and it further appears that in

the present suit, a decree of declaration has also been claimed, thereby seeking annulment of certain documents, which go to relate to the same property in question. Considering all these factors, I am of the considered view that both the suits should be tried by but one Court only to avoid the possibility of conflicting views of law and contradictory judicial opinion. Even, issues are not being framed by this Court. In view of this, let the matter be placed before Ld. Principal District & Sessions Judge, East, KKD, Delhi, on 03.02.2021 at 2.00 PM. Parties to appear before that Court on that day. Ahlmad to send the file complete in all respects on or before 03.02.2021.

(Sanatan Prasad)
Additional District Judge-01
(East)/KKD/Delhi/28.01.2021