

RCA No.325/16

Prem Chand Rawal & Ors. v. Khajan Singh Through LRs

25.09.2018

5th Call at 1.15 PM.

Present : Sh. S K Parihar, proxy for Ms. Protima Parihar, ld.
counsel alongwith appellant No.1.

Sh. T C Gupta, ld. counsel for respondent No.2/
LRs of Sh. Kishori Lal alongwith LR Smt. Asha
Raghav.

Sh. Karan Arora, proxy for Sh. T R Arora, ld.
counsel for LRs of respondent No.3 alongwith LR
Sh. Bal Kishan.

Ms. Suchita Dixit, proxy for Sh. Vivek Srivastava,
ld. counsel for objectors Smt. Brij Pali & Sh.
Parmeet Singh.

An application for bringing on record proposed LRs of deceased respondents, namely Smt. Dhanno Devi, also Smt. Murti Devi, Sh. Jaipal and appellant No.2(d), namely Sh. Nand Ram, also stating that respondent No.1(iii) Sh. Vipin S/o Sh. Rohtas Singh, expired unmarried and therefore, there was no LRs on his behalf, whereas, the proposed LRs of Smt. Murti Devi, W/o Sh. Kirori Mal, are already on record, as LRs of deceased Sh. Kirori Mal. Copy of application was given to Sh. Tara Chand Gupta, earlier and further, Sh. Karan Arora and Sh. Tara Chand Gupta had stated that he would not file any reply to the application and same can be allowed, similar is the stand,

taken by ld. proxy counsel for LR's of respondent No.3. It appears that I had already heard arguments on the application of the objectors on 11.04.2018 and even today, the matter has been taken up by me for the fifth time. Ld. counsels are not present simultaneously and on any of the call and it appears that there are many respondents and parties, as claimed in the application, moved today, U/o 22 rule 4 CPC. Even some of them appear to be minors. Under the circumstances, the Court has no option but to allow the application, moved today and also U/o 1 rule 10 CPC, moved by the objectors, Smt. Brij Pali & Sh. Parmeet Singh, hence, both the applications stand allowed, as the present objectors were party to the proceedings and the impugned judgment in its para 11 in the last three lines rules that "the objections of the objectors to the extent that executable decree with respect to which of property, bearing No.762 Jheel Khuranja, Gandhi Nagar, Delhi, is sustained and affirmed", further, in paragraphs No.22 at page 48 of the judgment, it is ruled that "so far as objections of the objectors are concerned, the preliminary decree dated 23.07.1983 cannot be reviewed and therefore, the ld. court below had concluded that no final executable decree could be passed in the case and the objections were decided accordingly", as such, it is clear to me that the presence of the objectors is necessary to dispose of the appeal on merits, in terms of Order 41 Rule 20 of CPC and accordingly they are added as party / respondent at the last place, in the array of the respondents, in the appeal.

Time is sought to move appropriate application with copy to other side, in advance and against receipt and place on record the amended memo of parties, taking care of minors and also adding the objectors, as respondents at the last place.

To come up on 01.11.2018 for appropriate application, also memo of parties. It is hereby ordered that copy of memo supplied to Sh. Tara Chand Gupta is of no consequence.

(Sanatan Prasad)
Additional District Judge-01
(East)/KKD/Delhi / 25.09.18