

27.09.2024

Present : Mr. Jaibhagwan Singh, father of the plaintiff in person.

Mr. Deepak Dagar, defendant no. 2 in person.

An application under Order 22 Rule 4 r/w Section 151 CPC for impleadment of legal representatives of defendant no. 1 is filed alongwith an application under Section 5 of the Limitation Act for condonation of delay.

Copies are supplied.

Applications are taken up.

It is submitted that defendant no. 1 died on 07.11.2023.

It is stated that since the power attorney holder of the plaintiff was in the US, the application under Order 22 Rule 4 r/w Section 151 CPC could not be filed within 90 days.

It is submitted that the defendant no. 1 is survived by his wife and two sons, details of whom are mentioned in the application under Order 22 Rule 4 of CPC.

It is submitted that right to sue survives against the stated legal heirs. It is prayed that delay in filing of the application under Order 22 Rule 4 of CPC be condoned and the legal heirs stated in the application be brought on record.

It is pointed out that one of the sons of the defendant no.1 is defendant no. 2 herein.

Arguments are heard and record is perused.

Suit has been instituted for cancellation of a gift deed. Right to sue survives against the legal representatives of the deceased defendant no. 1.

Application under Section 5 of the Limitation Act is allowed.

Delay in filing application under Order 22 Rule 4 r/w Section 151 CPC is condoned.

Since there is automatic abatement after expiry of 90 days from date of demise, abatement is set aside.

Application under Order 22 Rule 4 r/w Section 151 CPC is also allowed.

The stated legal heirs are brought on record in place of deceased defendant no. 1.

The amended memo of parties dated 27.09.2024 filed alongwith the application is taken on record.

To come up for plaintiff's evidence on 28.01.2025.

(Shirish Aggarwal)
District Judge-03
Patiala House Courts, New Delhi
27.09.2024