

CS No.58639/2016

AJEET PRASAD AGGARWAL VS. DMRC & ORS.

09.07.2018

Present: Sh. Irfan Ahmed, Id. Counsel for plaintiff with plaintiff
in person.

Sh. Naushad Alam, Id. Proxy counsel for LR's of
defendant no.3.

Sh. Vijay Kumar-Senior Legal Assistant on behalf of the
defendant no.1.

None for other defendants.

I have heard arguments on following applications:-

- (i) Plaintiff's application u/O 22 Rule 4 and 9 CPC;
- (ii) Plaintiff's application u/S 5 of Limitation Act;
- (iii) Plaintiff's application u/O 22 Rule 2 CPC and
- (iv) LR's of defendant no.3's application u/O 22 Rule r/w
Section 151 CPC.

File perused. Defendant no.3 expired on 03.02.2017. The application for bringing on record the legal heir of defendant no.3 was moved on 31.10.2017. Plaintiff was apprised of the death of defendant no.3 on 28.03.2017 and plaintiff could not move the application within time for bringing on record the LR's of defendant no.2 due to circumstances not in control of the plaintiff. Defendant no.3 is survived by the legal heir Smt. Anuradha Aggarwal who has also moved an application u/O 22 r/w Section 151 CPC for impleading her as legal heir of defendant no.3.

In the application u/O 22 Rule 2 CPC filed on behalf of

the plaintiff, it is averred that during the pendency of the suit defendant no.5 has died on 27.10.2017 leaving behind defendant no.4 as his only legal heir.

This is a suit filed by the plaintiff for recovery of money. The right to sue survives against the legal heirs of defendant no.3 and 5.

Considering the facts and circumstances of the case, all the above applications are allowed.

Amended memo of parties is taken on record.

Applications stand disposed of.

Put up for further proceedings on 25.10.2018.

(Praveen Kumar)
ADJ-05/PHC, NEW DELHI
09.07.2018