

08.01.2025

Present: Sh. Ashok K. Sagar, Ld. Counsel for LR's of P-1 and P-2
alongwith P-2
Ld. Counsel for defendant No. 1 and D-3.
None for D-2.

On the last date, this Court was informed about the death of D-1/Babu Ram. Today an application is moved by plaintiffs wherein it is disclosed that Babu Ram had one more son namely Raj Kishore and a daughter Malti.

The present suit is for partition of a property claimed to be under the ownership of Gomti Devi. Babu Ram is husband of Gomti Devi. In other words, the said Raj Kishore and Malti are inter alia children born from the wedlock between Babu Ram and Gomti Devi. It is surprising that when the plaintiffs approached this Court for partition of the suit property, despite being aware that Raj Kishore and Malti are LR's of Gomti Devi, they were never impleaded as original defendants in this suit.

It is submitted by Counsel for plaintiff that the same was not done because the said LR's were supporting the case of plaintiffs. This cannot be a ground for not impleading all the LR's of Gomti Devi.

In such circumstances, in the present suit, Raj Kishore and Malti Devi are necessary parties and as such are liable to be impleaded as D-4 and D-5. It is ordered accordingly. Let summons of the present suit be issued to the said defendants on filing of PF/RC/Speed-post to be filed by the plaintiffs.

Plaintiffs are directed to file an amended memo of parties. I may note that the original P-1 has expired and the amended memo filed by plaintiffs does not reflect the name of P-1 and therefore, plaintiffs are also directed to correct the said memo.

As far as the application moved today is concerned, on the death of D-1/Babu Ram, his children would succeed to the interest in the suit property. Counsel for D-1 submits that she is not aware whether said Babu Ram has died intestate or otherwise and would like to file reply to the present application. Let the same be filed.

List for appearance of D-4 and D-5. Also list for reply and arguments on the aforesaid application on 06.03.2025.

Aashish Gupta
DJ-01/NE/KKD/DELHI
08.01.2025