

03.07.2023

Present: Plaintiff no. 1 with ld. counsel Sh. K.R. Rana.
Sh. Nasimuddin, ld. Counsel or defendant no. 1,3,4 and 8.
Sh. Akbar Rashid, ld. counsel for defendant no. 2,5,6 and 7.

Matter is fixed for reply and arguments on the application under Order XXII Rule 4 r/w Section 151 CPC for impleading LRs of deceased defendant no. 5. It is submitted by ld. counsel for LRs of deceased defendant no. 5 that they will not file reply to the application and have no objection to the same.

By way of present application, it is submitted that during the pendency of the present suit, defendant no. 5 expired on 27.05.2022 leaving behind her husband namely Sh. Moinuddin as her surviving legal heir and right to sue survives against him. In view of the same, it has been prayed that he may be substituted as legal heir in place of deceased defendant no. 5.

Non-applicant/LR of deceased defendants no. 5 has not opposed the present application.

I have heard the ld. Counsel for both the parties and perused the record.

The plaintiff has filed the present suit for partition and permanent injunction. Hence, right to sue survives against the surviving LR of deceased defendant no. 5. In view of the same, surviving LR of the deceased defendant no. 5 is hereby substituted in her place. Application is

accordingly disposed off. Plaintiff is directed to file fresh/correct memo of parties.

At this stage, it is submitted by ld. counsel for defendant no. 1,3,4 and 8 that plaintiffs have claimed share in the property of their father namely late Abdul Hai who had two wives and defendants are the sons and daughters out of his wed-lock with wife namely Smt. Sajida Bibi. It is further submitted that the other wife Smt. Hamida Bee has expired and her LRs have not been made a party.

At this stage, ld. counsel for plaintiff seeks time to do the needful. Heard. Allowed.

Be put up for further proceedings on **28.08.2023**.

(GEETANJALI)
ADJ-01/NE/KKD/DELHI
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