

MISC DJ 362/23

DEVENDER KUMAR AND ANR. Vs. SANJAY TANWAR AND
ANR.

13.10.2025

Present: Ld. Counsel for LR's of applicant No.1 and applicant
No.2.
None for R-1.
Ld. Counsel for R-2 with R-2.

1. The main suit bearing No. 254/19 was dismissed in default vide order dated 08.08.2023. Thereafter, the present application bearing Misc DJ No. 362/23 came to be filed seeking restoration of the said suit to its original number.
2. In the interim, plaintiff No. 1/Devender Kumar died on 08.08.2025. Thus, Counsel for the plaintiffs/applicants has moved an application to bring on record the LR's of P-1. He submits that the name of LR's mentioned at S.No. 1(a) to 1(c) [wrongly written as 1(a) instead of 1(c)] are the three children of late Devender Kumar while P-2/wife of Devender Kumar namely Nirdosh is already arrayed as P-2 in the main suit.
3. He prays that the main suit be restored to its original number and his application to bring on record the LR's of P-1 be also allowed.
4. None has appeared on behalf of R-1 despite repeated calls.
5. While R-1 has filed his reply to restoration application, no reply has been filed by R-2 to the said application.
6. Arguments heard. Record perused.
7. It is the case of the applicants that applicant No. 1/P-1 (since deceased) was not mentally well and this led to the non-appearance of P-1 and P-2 (his wife) on 08.08.2023. The fact that P-1 did not keep good mental health is also admitted by R-1 in his reply to the restoration application.

8. Perusal of record shows that the restoration application was moved soon after the dismissal of the plaint and grave prejudice would be suffered by the plaintiffs in case the suit is not restored. Considering the admitted position before this Court that P-1 did not keep good mental health, in my humble opinion, the said cause is sufficient to explain the non-appearance of the plaintiffs on the relevant dated i.e. 08.08.2023.
9. Considering the above, the present suit is ordered to be restored to its original number.
10. Application Misc DJ No. 362/23 is accordingly disposed of. It be tagged to the main suit file i.e. CS No. 254/19.
11. As far as the application for bringing on record of LRs of P-1 is concerned, right to sue survives in the LRs of P-1 against the defendants and thus, the said application is also allowed.
12. The memo filed by the Counsel for applicants is having certain mistakes in the memo filed. Let a fresh memo of parties be filed.
13. At this stage, parties jointly request to refer the matter to Mediation center. Since, there is possibility of settlement between the parties, the matter is being referred to the Mediation Center. Parties are directed to appear before Ld. Incharge, Mediation Center, Karkardooma Courts, Delhi on 14.10.2025 at 2:00 PM.
14. Parties submit that R-1 shall also appear in the Mediation Centre on his own and they would inform R-1 also in this regard.
15. Be put up for outcome of mediation settlement on 06.11.2025.
16. Let copy of this order be placed in the main suit file.

Aashish Gupta
DJ-01/NE/KKD/DELHI
13.10.2025