

CS No.299/19
MOHD AKHLAQ Vs. AKRAM AND OTHERS

07.08.2023

Present: Sh. Rajeev Shukla, ld. counsel for LR's of deceased plaintiff.
Sh. Bijendra Gautam, ld. counsel for defendant nos. 1 to 6,
LR's of defendant no. 7 and defendant no. 8.
None for defendant no. 6.

Matter is fixed for arguments on the applications under Order XXII Rule 3 r/w Sec. 151 CPC and under Order XXII Rule 4 r/w Sec. 151 CPC.

Arguments heard in part on the applications under Order XXII Rule 3 r/w Sec. 151 CPC. During the course of arguments, it is submitted by ld. Counsel for defendants that the affidavits of all the LR's of deceased plaintiff has not been annexed with the application. Ld. Counsel for plaintiff seeks time to do the needful.

Application under Order XXII rule 4 CPC is now taken up for consideration. By way of present application, it is submitted that during the pendency of the present suit, defendant no. 7 expired on 09.11.2021 leaving behind Mst. Farheen (wife), Mohd. Faisal, Mohd. Sufiyan and Mohd. Juned (all sons) as his surviving legal heir and right to sue survives against them. In view of the same, it has been prayed that they may be substituted as legal heirs in place of deceased defendant no. 7.

Non-applicant/ LR's of deceased defendant no.7 has opposed the application through reply on the ground of delay and has prayed that same may be dismissed.

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 LRs of deceased defendant no. 7. In view of the same, surviving LRs of the deceased defendant no. 7 are hereby substituted in his place. Application is accordingly disposed off.

At this stage, it is submitted by ld. Counsel for defendants that minor daughter of deceased defendant no.8 i.e. LR no. 8(e) has also expired. Heard. In view of the same, LR no. (e) of deceased defendant no. 8 is deleted from the array of parties.

Be put up for arguments on the application under Order XXII Rule 3 r/w Sec. 151 CPC on 11.09.2023.

(GEETANJALI)
ADJ-01/NE/KKD/DELHI
07.08.2023

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