

17.12.2024

Present: Sh. Shubham Ahlawat, Ld. Counsel for plaintiff.

Sh. Jagdev Gulia, Ld. Counsel for defendants.

Submissions heard on the application under Order 22 Rule 4 CPC.

The plaintiffs have filed the present suit for declaration and permanent injunction against the defendants and defendant no. 2 Sh. Padam Singh has expired and application has been filed by the plaintiffs for substitution of his legal representatives on 26.08.2023. The defendant no. 2 has expired on 28.05.2023 and it is averred that the particulars of legal heirs of defendant no. 2 were provided to counsel for plaintiff on 18.08.2023. It is claimed that the right to sue survives so legal representatives are required to be substituted after the death of defendant no. 2.

It is the contention of the counsel for defendants that the right to sue does not survive and the application is liable to be dismissed.

The plaintiffs have claimed relief of declaration of a registered sale deed dated 13.10.2009 executed by defendant no. 2 not binding upon plaintiffs and not effecting their rights and also decree of declaration thereby declaring that defendant no. 2 had already sold and transferred the land measuring 520 sq. yds and 230 sq. yds and was having no rights qua the said land to transfer it by virtue of sale deed dated 13.10.2009 and also the

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decree of declaration that the changes in revenue record in respect of suit land part of khasra no. 28/1 admeasuring 13 biswa situated at Village Kanjhawala have not affected the rights of the plaintiffs and will not prevail over the settlement which took place between the parties/co-sharers in 1992.

Considering the reliefs claimed in the suit by the plaintiffs, it appears that after the death of defendant no. 2, right to sue still survives. The application is allowed accordingly. Amended memo of parties be filed.

Put up on **01.04.2025** for arguments on application of defendant under Order 18 Rule 17 CPC.

(SUNIL CHAUDHARY)
DJ-04/North-West
RHC/Delhi 17.12.2024