

3 CS DJ 1918/17 RAKESH KUMAR RAMWANI Vs. DEEPAK
RAMWANI
20.02.2021

Present: Plaintiff in person.

Sh. Yogesh Sharma, Ld. Counsel for defendant no. 2 and
3 alongwith defendant no. 3 in person.

In compliance with the direction issued by the Hon'ble High court of Delhi, conveyed through Judl./Circular/F.43/South East/Saket/2020/1899-1975 dated 30.01.2021 wherein it has been directed that the court shall take up all the cases of the cause list through physical hearing as per duty roaster, hence the matter is taken up today through physical hearing.

An application u/o 22 rule 4 r/w section 151 CPC has been filed on behalf of plaintiff for bringing on record the LRs of deceased defendant no. 2 Kishan Kumar.

It is submitted that defendant no. 2 Kishan Kumar has expired on 18.04.2020 leaving behind his LRs as mentioned in the para no 2 of this application. Though, this application has been filed very late, yet this is a suit for partition between the parties and the LRs of defendant are the necessary party in the suit and the right survives in favour of the LRs of the defendant. Hence, the LRs of deceased defendant are hereby taken on record. Amended memo of parties be filed by the next date of hearing. Death certificate of deceased

defendant Kishan Kumar is on record.

Pleadings are complete. From the pleadings of the parties, following issues are hereby framed:-

(1) Whether the plaintiffs have concealed the material facts from this court and has not approached the court with clean hands?

OPD-1

(2) Whether the suit of the plaintiff is not maintainable in law and in facts? OPD-1&2

(3) Whether the plaintiff is entitled for preliminary decree of partition of suit property bearing no. 226/B/1, Prakash Mohalla, Garhi, Lajpat Nagar, New Delhi? OPP

(4) Whether the plaintiff is entitled for a decree of mandatory injunction in favour of the plaintiffs and against the defendants thereby directing the defendants not to demolish / remove the addition and alteration made by them in the suit property in question? OPP

(5) Whether the plaintiff is entitled for a decree of permanent injunction in favour of the plaintiffs and against the defendants thereby restraining the defendants not to create any third party interest in the suit property in question? OPP

(6) Relief.

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No other issues are raised or pressed for.

Now, be put up for PE on **22.04.2021**. Let advance copy of evidence by way of affidavits of witnesses be supplied to the opposite counsel at least one week before next date of hearing, failing which a cost of Rs. 2000/- shall be imposed on the plaintiff. List of witnesses be also filed by both the parties within 15 days from today.

(Neelam Singh)
ADJ-02/SE/Saket/New Delhi
20.02.2021 (R)