

16 RCA DJ 50/18

ATIN GUPTA Vs. BRAHAM JEET

14.01.2025

Present : Appellant in person with ld. counsel Sh. Subhash Garg and
Sh. Krishna Pal.
None for Respondent.

Matter is listed today for reply and arguments on the application under Order 22 Rule 4 CPC filed by the appellant.

A. Perusal of record shows that application under Order 22 Rule 4 CPC dated 29.03.2019 was moved by the Appellant for impleadment of LRs of **Sh. Braham Jeet** /Respondent no. 1 is pending for adjudication.

Heard on said application. Record perused.

Ld. counsel submits that Respondent no. 1 expired on 19.03.2019. Ld. counsel submits that one of the LRs i.e. LR no. 3 Sh. Daya Chand is already impleaded as Respondent no. 2 in the present appeal. Ld. counsel further submits that LR no.1, Sh. Maluk Singh was served on 06.06.2024.

Perusal of record shows that no reply has been filed by the said LR no. 1(i). No adjournment application has been moved by said LR. No further opportunity is given for the same.

Perusal of record shows that Respondent no. 2 is also one of the LR (i.e. LR no. 1 (iii)). Perusal of record further shows that LR no. 1(ii) has already expired.

The right to sue survives and hence, application is disposed off as **allowed**. The LR's – Sh. Maluk Chand, Sh. Kanwar Pal and Sh. Daya Chand as mentioned in the application are impleaded on record. Thus, the application is **disposed off**.

B. Another application under Order 22 Rule 4 CPC dated 05.04.2024 was moved by the Appellant for impleadment of LR's of **Sh. Kanwar Pal** (who was LR no. (ii) of deceased Respondent no. 1).

Ld. counsel for appellant submits that Sh. Kanwar Pal was expired and said fact is reflected in the ordersheets.

Perusal of record shows that it has been observed in the Ordersheet dated 17.07.2022 that report over process sent to 'Sh. Kanwar Pal' received back unserved with the report of 'expired'. Accordingly, the Appellant moved instant application to implead the LR's of said Sh. Kanwar Pal.

Heard on said application. Record perused.

Perusal of record shows that all the three LR's of Sh. Kanwar Pal had refused to receive the process and accordingly, they were deemed to be served on 24.07.2024.

Perusal of record further shows that LR's of deceased Sh. Kanwar Pal were directed to file reply within 04 weeks, however no such reply has been filed. No one has appeared for the said LR's. No further opportunity is given.

The right to sue survives. The three LR's- Smt. Dulari, Sh. Neeraj and Sh. Kuldeep, as mentioned in the application are impleaded on record. Thus, the aforesaid application is also **disposed off** as allowed.

Amended Memo of parties dated 05.04.2024 is taken on record.

Ahlmad is directed to correct the case title on the CIS server as ‘ Atin Gupta v. Braham Jeet (deceased) through LRs and anr.’.

C. Perusal of record shows that appeal pertains to the year 2018 and no reply to the appeal has been filed by the respondents till date. Since the LRs of deceased respondent no.1 /Sh. Braham Jeet and further LRs of deceased Sh. Kanwar Pal have been impleaded today, in the interest of justice, **last and final opportunity is granted to all the Respondents to file reply to the appeal within 04 weeks with copy to other side.**

Ld. counsel for appellant ensures to place on record extra sets of paper book/appeal on record today itself. Be supplied to the respondents against due acknowledgment.

Put up for reply and arguments on appeal on **07.04.2025.**

(MOHAMMAD EHTESHAM)
District Judge-03 (Shahdara),
KKD Courts, Delhi. 14.01.2025