

RAJENDER SINGH Vs. HUKUM CHAND

03.12.2024

Present : Sh. A. R. Siddiqui, Sh. Abdul Dadir, Sh. Deepak Singh and Ms. Anakia Sharma, Ld. counsel for appellant.
Sh. Yawar Siddiqui, Ld. counsel for Respondent no. 1 (through VC).
Sh. J. K. Srivastava and Ms. Taruna, Ld. counsels for LR of Respondents no. 2 and 3 (since deceased).
Sh. Dheeraj K Nayal, Ld. counsel for Applicant Sh. Shyam Sunder, proposed LR of deceased Respondents no. 2 and 3 (through VC).

Arguments heard on application under Order 22 Rule 4 CPC filed by the Applicant Sh. Shyam Sunder for impleadment himself as LRs of Respondent no. 2 and 3.

Ld. counsel for deceased Respondents no. 2 and 3 submits that the factum of death of Respondents no. 2 and 3 has already come on record on 18.11.2021. Ld. counsel submits that application has not been filed by the appellant and the applicant /proposed Respondent cannot litigate on behalf of Respondents no. 2 and 3 by filing the instant application. Ld. counsel further submits that Appellant was Plaintiff before the trial court and his suit was dismissed with costs in favour of the Defendants vide Order dated 17.11.2017. Ld. counsel further submits that the applicant is in collusion with the Appellant and as per Order 22 Rule 4 (3) CPC, the proceedings against the deceased Respondents no. 2 and 3 shall abate.

Ld. counsel for applicant submits that he is the legal heir of Respondents no. 2 and 3 and the property of the said respondents shall devolve on their legal heirs.

The appellant/Plaintiff has filed the suit for permanent injunction and declaration, which was dismissed by the ld. trial court. As such, it is not a suit for partition of the property left behind by the Respondents no. 2 and 3. Admittedly, the Respondents no. 2 Sh. Sudarshan Khanna and 3 Smt. Promila Khanna have expired and the said fact has not been disputed by the Appellant. The present application has not been filed the Appellant. Further, the application has been filed on 21.03.2023. The factum of death of deceased Respondents have already came on record on 18.11.2023. The limitation period to file such application is 3 months. Therefore, the proceedings against the said respondents have already abated by the operation of law under Order 24 Rule 4(3) CPC.

In view of the above discussion, **the present application is dismissed and proceedings against the Respondents no. 2 Sh. Sudarshan Khanna and 3 Smt. Promila Khanna are abated.**

Put up for further proceedings on **31.01.2025.**

(MOHAMMAD EHTESHAM)
District Judge-03 (Shahdara),
KKD Courts, Delhi.03.12.2024.