

CS 2040/16
PREM WATI Vs. RACHNA SHARMA ETC.

22.05.2024

1st call at 12:01pm

Present: None for plaintiffs.
Sh. Rakesh Sharma, Ld. counsel for D-1 and D-2.

Court notices were issued upon plaintiff no.1, LRs of plaintiff no.2 as well as their counsel. Report filed. As per report, plaintiff no.1 (also LR no.i of plaintiff no.2) has received the court notice herself. The courts notice issued to Sh. Sushil (LR no.ii of plaintiff no.2) and Sh. Vikas (LR no.iv of plaintiff no.2) were received by plaintiff n **2040** o.1/their mother Smt. Premvati and she stated that they have already expired. It is also stated that Sh. Sushil had expired on 17.03.2023. Court notice issued to LR no.iii of plaintiff no.2 Pardeep has also been served through his wife. Court notice issued to their counsel has been received back with the report “served”.

None has appeared on behalf of plaintiff no.1 and proposed LRs of defendant no.2 despite service of notice.

Be awaited for appearance of plaintiff no. and proposed LRs of defendant no.2 for **2:00pm**.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
22.05.2024

2nd call at 02:3pm

Present: Sh. Dinesh Gupta, Ld. Counsel for plaintiff no.1
and LRs of plaintiff no.2, LR no.i, iii and proposed
LRs of LR no.iv of plaintiff no.2 submits that

(2)

Sh. Rakesh Sharma, Ld. counsel for D-1 and D-2.

Ld. counsel for plaintiff no.1 and LR of plaintiff no.2, LR no.i, iii and proposed LR of LR no.iv of plaintiff no.2 submits that the application under Order XXII Rule 3 r/w Section 151 CPC is pending for substitution of LR of LR no.iv of plaintiff no.2.

Ld. counsel for D-1 and D-2, on instructions submits that D-1 and D-2 have no objection, if the present application be allowed.

Ld. Counsel for plaintiff no.1 and LR of plaintiff no.2, LR no.i, iii and proposed LR of LR no.iv of plaintiff no.2 submits that deceased LR no.iv of plaintiff no.2 expired on 21.10.2019 and subsequently the application under Order XXII Rule 3 r/w Section 151 CPC for substituting the LR of LR no.iv of plaintiff no.2 was filed on 25.11.2019. He further submits that the present application is formal in nature and no prejudice would be caused to the defendant, if the present application be allowed. It is further submitted that the present application is well within limitation and right to sue still survive in favour of LR of LR no.iv of plaintiff no.2.

Heard. File perused.

In view of the submissions, contentions made in the application and no objection given by the Ld. counsel for defendants no.1 and 2 and considering the fact that right to sue still survive, the application under Order XXII Rule 3 R/W Section 151 CPC dated 21.11.2019 is hereby allowed. LR of LR

(3)

no.iv of plaintiff no.2 mentioned in para no.2 of the application are substituted in the present suit.

Application under Order XXII Rule 3 r/w Section 151 CPC is disposed off accordingly.

Amended memo of parties is taken on record.

Ld. Counsel for plaintiff no.1 and LRs of plaintiff no.2, LR no.i, iii and LRs of LR no.iv of plaintiff no.2 submits that LR no.ii of plaintiff no.2 namely Sushil had expired on 13.03.2023. It is further submitted that other LRs of plaintiff no.2 are already on record, therefore, there is no necessity to substitute the LRs of LR no.ii of plaintiff no.2, however the present suit has been abated qua the LRs of LR no.ii of plaintiff no.2.

It is further submitted that the present matter be listed for plaintiff evidence. It is further submitted the evidence affidavit of Sh. Subhash Chander Verma is already on record. He further submits that he will move an appropriate application for examining some other witnesses or to summon Sh. Subhash Chander Verma in the present matter.

In view of the submissions, matter be adjourned.

Put up for PE on **05.08.2024**.

Date is given as per the convenience of Ld. counsels.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
22.05.2024