

4 CS 115/22

**AJAY KUMAR AND ANR Vs. JASHEEM / JASHIM AND
ORS**

22.04.2024

At 10:17am

Present: Sh. Akhilesh Dixit, Ld. Counsel for the plaintiffs.
None for D-1(**Opportunity to file WS closed vide order dated 21.03.2023**).
None for D-2, D-3, D-4 & D-6 are yet to be served.
Sh. Pankaj Rai, Ld. Counsel for D-5 along with D-5 in person(**Opportunity to file WS closed vide order dated 21.03.2023**).

An application under Order V Rule 20 r/w Section 151 CPC filed on behalf of the plaintiffs for issuance of summons for substituted service upon the D-2, D-3, D-4 and D-6.

Ld. counsel for the plaintiffs submits that plaintiff shall make a reasonable enquiry and thereafter he will file a proper address of D-2 and D-3. It is further submitted that plaintiff shall also take proper steps for getting the fresh and correct addresses of D-4 and D-6.

Ld. counsel for the plaintiffs, on instructions submits that plaintiffs want to withdraw the present application.

In view of the submissions made by the Ld. counsel for the plaintiffs, application under Order V Rule 20 r/w Section 151 CPC is hereby **dismissed as withdrawn**.

(2)

Application under Order V Rule 20 CPC is accordingly disposed off.

Ld. counsel for plaintiff submits that plaintiff does not wish to file replies to the applications u/s 151 CPC and Section 5 of the Limitation Act. It is further submitted, on instructions that the aforesaid applications be allowed subject to cost.

In view of the submissions, contentions made in the application, no objection given by the Ld. counsel for the plaintiffs and considering the fact that the present matter is still at initial stage, issues are yet to be framed and also considering the fact that D-5 is in possession of one flat constructed over the suit property, therefore, the applications u/s 151 CPC and Section 5 of the Limitation Act are hereby allowed subject to cost of Rs.5,000/- to be paid to the plaintiff.

Order dated 21.03.2023 vide which the right of D-5 to file WS was closed is hereby recalled.

Applications u/s 151 CPC and Section 5 of the Limitation Act are accordingly disposed off.

Written statement of D-5 is taken on record.

Plaintiff would be at liberty to file replication, if any to the WS of D-5 within 15 days from today.

Plaintiff and D-5 are directed to file the affidavits of admission and denial of documents within 15 days from today with the advance copy to other side.

Parties are directed to produce original documents on the NDOH.

(3)

Parties are also directed to file the proposed issues on the NDOH.

Put up for completion of pleadings, admission and denial of documents and framing of issues on **08.07.2024**.

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

(Deepanker Mohan)
Additional District Judge-04
Shahdara District/KKD Courts/Delhi
22.04.2024