

Suit No. 405/16

Adesh Kumar Jain
V.
Brij Rani Sharma & Ors.

25/04/2017

Present: Plaintiff in person with Ld. counsel Sh.Ashok Kaushik.
Sh. Manoj Kumar Tyagi, Ld. counsel for the LR's of the defendant no.1 and he is also appearing as proxy counsel for counsel for the defendant no.2.

Both regular stenographers are on leave today.

It is submitted by counsel for the plaintiff that he is not pressing application u/s.151 CPC of the plaintiff and the plaintiff be permitted to withdraw the aforesaid application. Heard. Not opposed. Request is allowed. At the request of the plaintiff and his counsel, aforesaid application u/s.151 CPC is dismissed as withdrawn.

It is submitted by counsel for the plaintiff that application under Order 22 Rule 4 r/w section 151 CPC for bringing on record the LR's of the defendant no.1 and another application u/s.5 of the Limitation Act r/w section 151 CPC for condonation of delay in filing the application under Order 22 Rule 4 r/w section 151 CPC are also pending for adjudication. It is further submitted by the counsel for the plaintiff that inadvertently, in the application under Order 22 Rule 4 r/w section 151 CPC the plaintiff has mentioned four names as LR's of the defendant no.1 and as per information received, the defendant no.1 is having only two LR's namely Dinesh Sharma and Anju Sharma and the names of

Narender Sharma and Raju Sharma be not read as LRs of the defendant no.1. Heard. Not opposed. Request is allowed.

It is submitted by the counsel for the plaintiff that the defendant no.1 has expired on 06/05/2014 and right to sue survives against LRs of defendant no.1 and LRs of defendant no.1 be substituted in the present case and delay in filing the application under Order 22 Rule 4 r/w section 151 CPC be condoned. It is submitted by the counsel for the LRs of defendant no.1 and proxy counsel for defendant no.2 that he has no objection, if the aforesaid applications are allowed subject to heavy cost.

Arguments heard on the aforesaid applications of the plaintiff. Perused the material available on record. Death certificate of the defendant no.1 is already on record. Right to sue survives against the LRs of defendant no.1. Considering the facts, circumstances and in view of the submissions made, the aforesaid applications of the plaintiff are allowed. Plaintiff is directed to file amended memo of parties on or before the next date of hearing.

At request, put up for admission/denial of documents and framing of issues on 10/07/2017.

(Vijay Shankar)
ADJ-06 (South-West)
Dwarka Courts, New Delhi
25/04/2017