

24 CS No. 392/17

HEM CHAND JAIN Vs. BALJEET SINGH AND ORS

31.05.2022

Present: Sh. Manish Bansal, Ld. Counsel for LR's of deceased plaintiff.

Sh. Deependra Huda, Ld. Counsel for defendant.

Order of Hon'ble Delhi High Court dated 04.04.2022 perused.

Ld. Counsel for parties submit that there is no stay on the proceedings of the present suit by the Hon'ble Delhi High Court.

Record of file reveals that there are two miscellaneous applications of the LR's of the deceased plaintiff pending disposal, one under Order 22 Rule 3 CPC for impleading LR's of deceased plaintiff and another application under Order 16 Rule 1 r/w Section 151 CPC for examining Naksha Nafees/Draftsman, who has prepared the site plan.

Ld. Counsel for defendant submits he do not wish to file reply to the aforesaid two applications and he has straightway argued on the same.

I have heard the arguments on the aforesaid applications and perused the entire material on record.

At this stage, Ld. Counsel for defendant has stated that he has no objection to the application of the plaintiff filed under

contd..

O22 R 3 CPC but he has objection on the application under O16 R 1 CPC r/w section 151 CPC as the same is an after-thought.

Heard.

In the light of no objection given by the Ld. Counsel for the defendant, application under Order 22 Rule 3 CPC is allowed. More so when cause of action survives in favour of the LRs of deceased plaintiff. Application stands disposed of accordingly.

As far as application under Order 16 Rule 1 r/w Section 151 CPC is concerned, it is seen that plaintiff has only prayed for examining Naksha Nafees/draftsman who has prepared the site plan. Now, since defendants shall have all opportunity to cross-examine the aforesaid Naksha Nafees/draftsman, the application in hand is also allowed. However, since it has caused delay, same is allowed subject to cost of Rs.2000/- to be paid to the defendants.

Both applications stands disposed of accordingly.

Amended memo of parties is stated to have already been filed, be taken on record.

Put up for RPE on **20.10.2022**. Plaintiffs are directed to take steps well in advance for completion of their evidence on the next date of hearing.

(MOHINDER VIRAT)  
ADJ-05 (SW):Dwarka Courts  
New Delhi : 31.05.2022(sc)