

SURESH KUMAR Vs. VISHAL SHOKEEN AND ANR

31.03.2022

Present: Plaintiff in person

Sh. Vijender Vats, Ld. Counsel for the plaintiff (through VC).

Sh. L. C. Rajput, Ld. Counsel for the defendants.

Defendant no. 2 and 4 have already expired.

LRs of deceased defendant no. 2 and 4 were impleaded vide order dated 08.03.2016. In addition to the defendants who were already on record one Smt. Pinki was also impleaded as LR of deceased defendant no. 2 and 4.

Now defendant no. 3 has also expired. Already an application under Order 22 Rule 10 CPC was filed on behalf of defendants informing that there are no Lrs of deceased defendant no. 3 except the LR of deceased defendants nos. 2 and 4 namely Sh. Vishal Shokeen/defendant no. 1 and Smt. Pinki.

An application under Order 22 Rule 4 CPC is also filed by the plaintiff for bringing on record Lrs of deceased defendant no. 3. In view of the submissions made and considering the facts that the present suit is a suit for specific performance and accordingly, right to sue survives. The application is allowed and Lrs of deceased defendant no. 3 is taken on record.

The amended memo of parties filed along with application is not proper accordingly, plaintiff is directed to file a fresh amended memo of parties.

The application is under Order 22 rule 4 CPC is also accompanied by an application under Section 5 of Limitation Act. Since, the period of limitation was kept in abeyance by Apex court on account of Covid, the said application is also allowed.

PTO

Defendant is directed to file his list of witnesses along with affidavit of witnesses within 15 days from today in case not filed. Advance copy of the affidavit of DWs be supplied to opposite counsel at least 15 days prior to NDOH.

Re-notify for DE on 12.05.2022 as last and final opportunity.

Shivali Sharma

Additional District Judge-03(West)

Tis Hazari Court/31.03.2022