

Civ DJ 10253/16

SATPAL MALHOTRA AND ANR Vs. MOHINDER NATH RAKHEJA
AND ANR

09.08.2023

Present : Sh. Arvind Sardana, Id proxy counsel for plaintiff.

Sh. Vineet Bahl, Id. counsel for defendant no.1

Perusal of record shows that written statement has not been filed by the defendant no.2 and counter-claim has been filed by defendant no.1, however, said counter claim has not been separately registered. Same be registered separately.

Perusal of record further shows that issues were framed on 20.03.2017. Same were framed qua main suit as well as counter claim.

In this matter, two applications were moved by plaintiff i.e. one under Order 11 Rule 14 read with Section 151 CPC and another under Section 45 & 73 of Indian Evidence Act read with Order XVII Rule 10-A and Section 151 CPC.

Reply of application under Section 45 & 73 of Indian Evidence Act read with Order XVII Rule 10-A and Section 151 CPC has been filed by defendant no.1. However, reply to other application was not filed but the said application has been decided/disposed of vide order dated 17.09.2022.

In this matter, defendant no.1/counter-claimant has expired. Application under Order 22 Rule 4 CPC has been moved by plaintiff qua main suit and application under Order 22 Rule 3 CPC has been moved qua counter-claim by Id counsel for defendant no.1 / counter-claimant.

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It is informed that defendant no.1/counter-claimant expired on 05.05.2023. Copy of death certificate has been filed on record. Both the applications have been filed within limitation. Right to sue survives against defendant no.1 and in favour of counter-claimant. Accordingly, both the applications are disposed off. Amended memo of parties be filed on the next date of hearing.

Matter be put up for arguments on the application 45 & 73 of Indian Evidence Act read with Order XVII Rule 10-A and Section 151 CPC on **11.10.2023**.

Interim order to continue till next date of hearing.

Copy of this order be also placed in case file of counter-claim.

(Dharmender Singh)
Additional District Judge-01(West)
Tis Hazari Courts, Delhi
09.08.2023