

Physical Hearing

09.09.2021

Since the matter was adjourned *en-bloc* due to pandemic Covid-19 situation, therefore, the ordersheet during the lockdown period is not on record.

Present: Sh. Ashish Kapur & Sh. Anmol Kapur, Ld. Counsels for the plaintiff alongwith plaintiff in person.

Sh. Anil Kumar, Ld. Counsel for the defendant nos. 3 & 4.

Defendant no. 6 in person with Ld. Counsel Sh. Sandeep Singh.

Arguments heard on the application U/s 151 CPC filed by defendant no. 6 intimating the death of defendant no. 1. Alongwith the aforesaid application, death certificate of defendant no. 1 has also placed on record.

Ld. Counsel for the plaintiff has filed amended memo of parties.

Separate application for impleading the LRs is not required as the LRs of deceased defendant no. 1 are already parties in the suit. Amended memo of parties is taken on record and **the application U/s 151 CPC filed by defendant no. 6 is disposed of accordingly.**

Ld. Counsel for the defendant no. 6 submits that his another application U/s 151 CPC is for setting aside the order dated 18.09.2019.

Arguments heard. Record perused.

Ld. Counsel for the defendant no. 6 submits that it has been wrongly recorded in order dated 18.09.2019 that the defendant does not dispute the share of the plaintiff as well as the ownership of the

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property by the father-in-law. However, in the written statement filed by defendant nos. 1 & 6, it has been clearly mentioned that the share of the plaintiff is disputed.

Per contra, Id. Counsel for the plaintiff submits that in para no. 6 of preliminary objection, it has been mentioned that the plaintiff has already taken her share. Thus, her right to have share in the property is undisputed and it is to be decided whether she has taken her share or not. Therefore, there is no substance in the averments of defendant no. 1 and no error apparent on record as such.

In view of the submissions made by Id. Counsel for the plaintiff, **the application for recalling of order dated 18.09.2019 filed by defendant no. 6 is dismissed.**

An application U/s 151 CPC filed by the defendant for taking on record the list of witnesses is pending disposal.

Defendant no. 6 has also filed list of witnesses. Same is taken on record.

In view thereof, **application U/s 151 CPC taking on record the list of witnesses stands allowed.**

After the death of defendant no. 1, defendant no. 6 has filed similar applications, therefore, no purpose will be served in keeping the applications pending. In view thereof, the applications filed by defendant no. 1 are dismissed without going into the merits of the application.

Put up for arguments on applications i.e. (I) U/o VI Rule 17 CPC; (ii) U/o VIII rule 1A CPC on 30.10.2021.

(Manish Sharma)

ADJ-01/West/09.09.2021