

1 Civ DJ 12897/16
ATUL KUMAR Vs. BIMLA DEVI

13.05.2026

Present: Sh. Vineet Sharma, Ld. counsel for plaintiff (VC).
Sh. Sunil Khanna, Ld. counsel for defendant no.3 & 4
with proposed LRs of defendant no.2.
Ms. Pranjal Vyas, Ld. proxy counsel for defendant no.5 &
6 (VC).

Vakalatnama on behalf of LRs of deceased defendant no.2
has been filed.

Reply to the application under Order XXII Rule 4 CPC
has been filed. Copy of same is stated to be supplied to Ld. counsel for
plaintiff. Submissions made on behalf of defendant no.3, 4 and
proposed LRs of defendant no.2. Ld. counsel for plaintiff submits that
he wants to make submission on the said application physically. At
request, be put up at 12:00 noon.

(Sunil Choudhary)
District Judge-01(West), THC
Delhi/13.05.2026

At 12:05 pm

Present: Sh. Vineet Sharma, Ld. counsel for plaintiff (VC).
Ms. Pranjal Vyas, Ld. proxy counsel for defendant no.5 &
6 (VC).

Submissions of parties are heard on the application
application under Order XXII Rule 4 CPC.

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Vide instant application under Order XXII Rule 4 CPC, plaintiff has sought permission of the Court to implead Class-I heirs of the defendant no.2 on her death as the present suit has been filed for the relief of Partition.

On the contrary, the application has been opposed by the Ld. counsel for defendants on the ground that plaintiff has failed to plead that right to sue survives against the proposed LRs of defendant no.2 and therefore, application is liable to be dismissed.

Record perused.

The present suit has been filed for the relief of Partition and separate Possession. In the considered opinion of this Court, right to survives against the proposed LRs of deceased defendant no.2 as the suit is for the relief of Partition. Mere non mentioning of the same in the application under Order XII Rule 4 CPC is not a ground for rejection of the application. The present application has been filed within the prescribed period of Limitation. Therefore, the present application under Order XXII Rule 4 CPC is allowed and the LRs of defendant no.2 are taken on record. Accordingly, IA No 2/26 stands disposed of.

Ld. counsel appearing on behalf of defendant no.3 & 4 has pointed out that the plaintiff has filed amended memo of parties alongwith instant application, wherein plaintiff has impleaded defendant no.4A to 4D without permission of the Court and the said amended memo of parties should not be taken on record.

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Perusal of record shows that plaintiff has not filed any application for impleading the said defendants no. 4A to 4D in the present suit. No notice has ever been served upon defendant no.4A to 4D mentioned in the amended memo of parties, therefore, the amended memo of parties is taken off the record. Plaintiff is directed to file fresh amended memo of parties in light of the order passed today.

Ld. counsel for plaintiff seeks time to move application for impleading the defendant no.4A to 4D in the present case.

List the matter for arguments on pending applications on **01.07.2026.**

(Sunil Choudhary)
District Judge-01(West), THC
Delhi/13.05.2026